

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

LA UNION DEL PUEBLO ENTERO, et al.,
Plaintiffs,

v.

GREGORY W. ABBOTT, et al.,
Defendants.

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Case No. 5:21-cv-844-XR

STATE DEFENDANTS' BRIEF IN RESPONSE TO
THE UNITED STATES' MOTION FOR SUMMARY JUDGMENT

APPENDIX H

Jacquelyn Callanen

February 28, 2023

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

LA UNION DEL PUEBLO)
ENTERO, ET AL.,)

Plaintiffs,)

vs.)

GREGORY W. ABBOTT, ET AL.,)

Defendants.)

Case No. 5:21-CV-844-XR

OCA-GREATER HOUSTON,)
ET AL.,)

Plaintiffs,)

vs.)

JANE NELSON, ET AL.,)

Defendants.)

Case No. 1:21-CV-780-XR

HOUSTON JUSTICE, ET AL.,)

Plaintiffs,)

vs.)

GREGORY WAYNE ABBOTT,)
ET AL.,)

Defendants.)

Case No. 5:21-CV-848-XR

LULAC TEXAS, ET AL.,)

Plaintiffs,)

vs.)

JANE NELSON, ET AL.,)

Defendants.)

Case No. 1:21-CV-0786-XR

MI FAMILIA VOTA, ET AL.,)

MAGNA 
LEGAL SERVICES

<p style="text-align: right;">Page 38</p> <p>1 other site, sir. We have a fantastic relationship 2 with the City of San Antonio. And so, when they open 3 a library, a public library, we're there. 4 Well, a few years ago the City of 5 San Antonio passed a bond election. And the bond 6 election was for remodeling of their libraries. And 7 so, we had issues -- I hate that word. We had issues 8 with one of their time schedules on their library. 9 We were to be able to be moved back into Memorial 10 Library. And due to supply chain issues, they didn't 11 open. They -- they didn't complete their work in 12 time. 13 So at the last minute, where we thought we 14 would be at Memorial Library, we had to go back to 15 our alternate site of West Point. So, it's issues 16 like that that we just take it right up to the wall 17 because we -- we -- the voters know to go to Memorial 18 Library. So, we had to post a big sign and move them 19 on. 20 Q. Did you become aware of any complaints in 21 connection with the general election in November of 22 2022 regarding the number or distribution of polling 23 places or vote centers? 24 A. Yes, sir. 25 Q. Could you describe what you became aware</p>	<p style="text-align: right;">Page 40</p> <p>1 you pull up and you go in and you're right in the 2 foyer, we're going to put you back around into the 3 gymnasium or we're going to allow you to have access 4 to the library. 5 So, that complied with it, so we have the 6 voting site there. But what we ended up finding out 7 was, for a lot of our senior citizens and a lot of 8 our ADA, the longer walk then became problematic. 9 They did it, but then we took calls of they -- you 10 know, weren't -- why did we do it? Why did we move 11 it there? And so, again, lessons learned. 12 So, you know, we went back and have worked 13 with the school districts. And so, with the 14 legislative session up there now, we are hoping and 15 praying that they will mandate that election day is a 16 school holiday or an in-service day because there 17 shouldn't be that angst. 18 Q. Are you aware of anyone who was unable to 19 vote or was dissuaded from voting on election day in 20 November of 2022 in Bexar County because of the issue 21 that you just described? 22 A. No. 23 Q. Okay. Let's talk about mail-in ballots. 24 A. Uh-huh. 25 Q. Have there been procedure changes since the</p>
<p style="text-align: right;">Page 39</p> <p>1 of? 2 A. I'm -- I'm respectful of the fact, and we 3 have to keep ever most in our mind, that on May 24th 4 we had the shooting in Uvalde. And so here in Bexar 5 County, 68 percent of our poll sites are in schools, 6 and the schools didn't want us. They -- after -- 7 after the Uvalde, you know, the horrendous shooting 8 over there, they didn't want the elections to be 9 on-site when the students were there. 10 So, we met with Region 20, which is our -- 11 all of our school districts, and we had some great 12 leadership. We have 13 different school districts in 13 Bexar County, and we had great leadership from some 14 of ours, and they chose to make election day an 15 in-service day so there would not be students. So, 16 for a portion of our normal sites we were -- 17 everything was fine. 18 But for the school districts that chose not 19 to make it an in-service day, the students were 20 there. And so, what happened in a few of our sites 21 is, now we're trying make amends. You know, they -- 22 they want to keep the students safe. We need to say, 23 and of course, they can't refuse us if we ask them. 24 And so, the accommodation was, okay, 25 instead of putting you in the foyer where, you know,</p>	<p style="text-align: right;">Page 41</p> <p>1 primaries in the first half of 2022 with respect to 2 mail-in ballots in Bexar County that were in place in 3 connection with the general election in November of 4 2022? 5 A. Huge changes. 6 Q. Okay. Could you generally describe those. 7 A. SB-1 when it was first rolled out, 8 obviously, for the primary, came very late into our 9 world. And I had just said the supply chain issue. 10 We -- SB-1 mandated that we needed all new election 11 envelopes and all -- everything new because of the 12 requirement and the language and -- and the ID and 13 the ID requirements and the perf lines on them. 14 And so, we -- we managed to get -- we got 15 them at the 11th hour, but we did it and it caused us 16 stress and the voters were anxious because their 17 ballots weren't getting there. 18 So -- and we had a number of our voters in 19 March and -- and May that their ballots were 20 rejected, the applications were rejected, because 21 SB-1 required either the TDL or the SSN. 22 And I would like to remind you that most of 23 our voters by mail are senior citizens who registered 24 years and years ago when it was not required to give 25 either an SSN or a TDL.</p>

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<p style="text-align: right;">Page 42</p> <p>1 So, the way the law was written is, the</p> <p>2 ABBM had to have one of those numbers and we had to</p> <p>3 match one of those numbers with the original voter</p> <p>4 registration card, well, we couldn't do it. We</p> <p>5 didn't have it. We didn't have it on record.</p> <p>6 And so then we would -- as we rejected it,</p> <p>7 we had to send them a new ABBM and a new voter</p> <p>8 registration card so that they could send it back and</p> <p>9 update their records.</p> <p>10 Well, as -- as you know, I mean, I'm not</p> <p>11 going to go back and beat a dead horse. But that</p> <p>12 procedure, because of the problematic rollout of it,</p> <p>13 was worked on and worked on and worked on, and the --</p> <p>14 the State was able to work with DPS somehow and we</p> <p>15 were able to get...</p> <p>16 I'm not technical, but they were able to</p> <p>17 take all of our voters and mash them against DPS and</p> <p>18 get the license numbers, or TDLs for a number of our</p> <p>19 voters. So, by the time we were into the May</p> <p>20 elections, we had a much more robust database. And</p> <p>21 so, we were able to make these matches much -- much,</p> <p>22 much better.</p> <p>23 And then there was a court case that the</p> <p>24 State lost that required the language on the</p> <p>25 envelopes that we had to be changed. Again, now</p>	<p style="text-align: right;">Page 44</p> <p>1 A. Yes.</p> <p>2 Q. Okay. And what was the overall effect of</p> <p>3 the changes as you observed them in October and</p> <p>4 November of 2022 as compared to the previous -- the</p> <p>5 first half of 2022?</p> <p>6 A. I -- I'm proud to say that -- that the</p> <p>7 changes that we effected here in Bexar County we did</p> <p>8 a lot of it on our own from our media outreach, to --</p> <p>9 to -- I'll show you how we -- we developed an insert</p> <p>10 for the ballot. I mean, we did a lot of outreach on</p> <p>11 our own, and we had a much, much higher success rate</p> <p>12 in November. So, it was -- it was a huge relief.</p> <p>13 Q. And when you refer to a success rate, could</p> <p>14 you explain what you mean by that.</p> <p>15 A. Well, again, in -- in every -- in every</p> <p>16 election, in the mail balloting process, we'll send</p> <p>17 out -- I mean, let's just say on this one, like,</p> <p>18 we'll send out 40,000. And when it's time to</p> <p>19 actually count the mail ballots, you're down to</p> <p>20 30,000, 30-, 32,000.</p> <p>21 And to a layperson out there, they're like,</p> <p>22 where did the other ones go? Well, you sent out this</p> <p>23 many, why don't you have this many back? Well, human</p> <p>24 nature enters into it a lot.</p> <p>25 And about probably anywhere eight to</p>
<p style="text-align: right;">Page 43</p> <p>1 we're problematic. We have -- we have the old ones.</p> <p>2 And so, do we sit there with a Sharpie and black out</p> <p>3 all of these or do we order more?</p> <p>4 And so, again, I mean, we're not the only</p> <p>5 county that was doing this. I mean, everyone was,</p> <p>6 sort of, you know, really, really pushing it and it</p> <p>7 worked. I mean, we were -- we were able to do it.</p> <p>8 I think the blessing in all of this is that</p> <p>9 in 2022, which is, you know, the gubernatorial</p> <p>10 elections, those election have --</p> <p>11 Q. You're talking about the general elections?</p> <p>12 A. General elections from the primary, that</p> <p>13 whole year is much smaller than a presidential year.</p> <p>14 And so, you know, we had 40,000 mail ballots, mail</p> <p>15 ballot applications in 2022. Where in 2020, we had</p> <p>16 124,000. So, again, you can see that it was an</p> <p>17 economy of scale, and we were much -- it was much</p> <p>18 easier to manage the -- the economy of scale that we</p> <p>19 did. But it was -- it was strenuous.</p> <p>20 Q. Have you described all of the changes that</p> <p>21 occurred in the -- the mail-in ballot procedures</p> <p>22 between the primaries in the first half of 2022 and</p> <p>23 the procedures that were in place for the general</p> <p>24 election in November -- in October of 2022 in Bexar</p> <p>25 County?</p>	<p style="text-align: right;">Page 45</p> <p>1 10 percent of the people who get a mail ballot will</p> <p>2 return that mail ballot and go vote in person because</p> <p>3 they use that mail ballot as a sample ballot. We</p> <p>4 have issues with that because, obviously, the mail</p> <p>5 ballots cost a lot of money, time, you know, people.</p> <p>6 Anyhow, I won't go into all those details. So, we</p> <p>7 don't get those back.</p> <p>8 Then you have the ones that are mailed in</p> <p>9 that are rejected for obvious reasons. You know,</p> <p>10 they didn't sign it. They signed -- what we see in a</p> <p>11 number of things is, a husband and wife will each get</p> <p>12 their ballot, but when it comes back in to us, the</p> <p>13 husband has signed the wife's ballot and vice versa.</p> <p>14 And so, those have to go out and be rejected to come</p> <p>15 back so that we have the right signature with the</p> <p>16 right ballot.</p> <p>17 So, there's any number of reasons why this</p> <p>18 happens. And in any normal election, we're going to</p> <p>19 get a reject rate of three percent, four percent.</p> <p>20 That's normal for -- for any election for us. But</p> <p>21 when we did November 2022, with all of our extra</p> <p>22 attention to it, we had a 1.7. So we were, like,</p> <p>23 yes.</p> <p>24 Q. You had a 1.7?</p> <p>25 A. Rejection rate.</p>

<p style="text-align: right;">Page 50</p> <p>1 So, because we have that vendor, we use it 2 for our mail ballots. We use it for our early 3 voting. It's a wonderful system. And they have 4 codes that we can put in for no signature, no 5 matching TDL, SSN. And we -- we have those codes 6 that come out. 7 And so, we can differentiate if -- if 8 needed to exactly how many didn't sign it, you know, 9 how many -- the -- we're still working on -- working 10 with the vendor to update the codes so that we can 11 capture more of the information from SB-1 on the 12 cure, not cured, you know. 13 We sent it by, we called them on the phone 14 or that detail's not in our system yet, so it's not 15 mat- -- it doesn't match up -- the State doesn't have 16 it in their system. So, this is a work in progress. 17 We're all learning and it's only getting better. 18 But again, there are third-party vendors 19 involved in, I think they said -- I think I'll 20 probably be wrong, but I think they said there were 21 31 counties that were not on TEAM real time. That 22 may have changed, but don't hold me to that 31. 23 Q. Is the information that Bexar County 24 captures on its software regarding the specific 25 reasons a mail-in ballot is rejected provided to the</p>	<p style="text-align: right;">Page 52</p> <p>1 those. We have those. And again, it's human nature. 2 If we have time to correct it, if the voter has time 3 to correct it, they can do it. 4 Q. What was the rejection rate in Bexar County 5 for 2020, if you recall? 6 A. I don't have that exactly, but I know it's 7 going to be in the three to four percent range. 8 Q. Okay. 9 A. I mean, that -- that was like our happy 10 zone. 11 Q. What was your -- well, explain to me what 12 you mean by the "happy zone." 13 A. Again, if one person doesn't get to vote, 14 that hits us. I mean, that's what we do. But if 15 you've gone through and you've had, you know, 124,000 16 ballots mailed out and -- and you've counted 92,000 17 and these others have been, you know, brought back to 18 you and not -- they just sit them on the shelf, 19 that's a good feeling. 20 But again, when the reject -- rejected 21 rate -- and again, please understand that the 22 rejected rate comes from partisan people because 23 we -- the election's office handles the manual part 24 of it. You know, we print the ballots. We take the 25 applications. We data enter. We mail them. We</p>
<p style="text-align: right;">Page 51</p> <p>1 State? 2 A. Yes. It -- it goes up every day in that 3 export and that import. 4 Q. Okay. You testified that the rejection 5 rate for Bexar County in the -- the general election 6 in November of 2022, if I understand correctly, was 7 approximately 1.7 percent? 8 A. Yes, sir. 9 Q. And my impression is that you take some 10 satisfaction in having gotten the number down to that 11 point; is that correct? 12 A. Absolutely. I'm so proud of my staff. 13 Q. How does that compare with the rejection 14 rate in 2020 in Bexar County? 15 A. Again, as -- as -- as I said, 2020 had a 16 higher rejection rate because just on the economy of 17 scale, when we're talking approximately 40,000 in 18 2022, but 124,000 in 2020, you can see you're going 19 to have a higher rejection rate based on -- you know, 20 the rejection's are the same no matter what election 21 you're doing. 22 If somebody doesn't sign their ballot, they 23 don't sign their ballot and that happens every time. 24 The only new thing this time was the TDL or the SSN, 25 the missing -- the missing information, but we have</p>	<p style="text-align: right;">Page 53</p> <p>1 bring them back in. We scan them. 2 And then once they're back, they get turned 3 over to the early ballot board. And that early 4 ballot board is a group of people that are appointed 5 by the Democrat and the Republican party. They are 6 not our employees. They are independent -- an 7 independent body. 8 And so, once we turn these over to them, 9 they are the ones who will make the decision that 10 there's no signature, or this person didn't sign it, 11 that signature doesn't match, whatever that's that 12 group. And then that's where we get the rejection 13 rate, the final rejection rate. 14 Q. How did Bexar County's 1.7 percent 15 rejection rate in the general election in 2022 16 compare to the rejection rate in general election 17 years prior to 2020? 18 A. It was less. It was less. I -- I can't 19 give you a number. I didn't do all the data mining, 20 but we can find it out. 21 Q. Can -- can you say that it was 22 significantly less? 23 A. It -- you know, I would feel like if you're 24 looking at just raw numbers it would appear to be 25 down 50 percent. But the difference between a three</p>

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<p style="text-align: right;">Page 58</p> <p>1 MR. GENECIN: Thank you.</p> <p>2 MS. CUBRIEL: This is counsel for Bexar</p> <p>3 County. I just want to say, at her last deposition,</p> <p>4 she brought an earlier version of the form --</p> <p>5 THE WITNESS: Uh-huh. Yes.</p> <p>6 MS. CUBRIEL: -- that was an exhibit. And</p> <p>7 so, our intent, and why I had her pull it out is, we</p> <p>8 do wish to make this an exhibit because this is the</p> <p>9 updated version.</p> <p>10 MR. BRYANT: Okay.</p> <p>11 THE WITNESS: It worked better.</p> <p>12 MS. CUBRIEL: Yeah.</p> <p>13 MR. BRYANT: Right.</p> <p>14 MS. CUBRIEL: And can you pass those extra</p> <p>15 ones down.</p> <p>16 MR. BRYANT: I will do that.</p> <p>17 (Exhibit 9 was marked.)</p> <p>18 Q. BY MR. BRYANT: Miss Callanen, let me show</p> <p>19 you what was marked Exhibit C at an earlier</p> <p>20 deposition that you gave in this case, and I've</p> <p>21 marked it as JC3, Exhibit 9.</p> <p>22 A. Uh-huh.</p> <p>23 Q. Can you describe what that is.</p> <p>24 A. This is an earlier version of -- of what we</p> <p>25 have there. And again, black and white. And you can</p>	<p style="text-align: right;">Page 60</p> <p>1 THE WITNESS: Yeah.</p> <p>2 MR. GENECIN: Are we going to mark this?</p> <p>3 MR. BRYANT: Yes, we will. I'm just trying</p> <p>4 to figure out what number I have not yet used.</p> <p>5 (Exhibit 13 was marked.)</p> <p>6 Q. BY MR. BRYANT: All right. Miss Miss</p> <p>7 Callanen I'm handing you what's been marked as JC3,</p> <p>8 Exhibit 13. Could you describe what that is.</p> <p>9 A. Yes, sir. This is the insert that we used</p> <p>10 for the November 2022 mail ballots.</p> <p>11 Q. Okay. And the -- the earlier exhibit that</p> <p>12 I showed you which is marked JC3, Exhibit 9, and also</p> <p>13 Exhibit C to your earlier deposition, when was that</p> <p>14 one in use?</p> <p>15 A. The black and white one came into use for</p> <p>16 the May elections, the city and school elections.</p> <p>17 Then the colored one came into use where it says the</p> <p>18 teal, that was for the primary runoff, which was also</p> <p>19 at the end of May. So May --</p> <p>20 Q. May of 2022?</p> <p>21 A. -- of '22. Yes, sir. We had the primary</p> <p>22 in March, and then we had the city and school</p> <p>23 elections the first Saturday, and then we had the</p> <p>24 primary runoff at the end of May. And so then in the</p> <p>25 next couple of months, then we went back and did</p>
<p style="text-align: right;">Page 59</p> <p>1 see, if you want to just -- to make the difference on</p> <p>2 it, when we did it this time, we wrote on here. It</p> <p>3 says, "Under the flap on your teal envelope." But we</p> <p>4 took "teal" off. We didn't -- people want to mess</p> <p>5 with what the color was.</p> <p>6 So the new ones just say, "Under the flap."</p> <p>7 So, again, we just -- again, in our office, we use it</p> <p>8 for not -- we were, like -- can I -- dare I say, we</p> <p>9 were dumbing it down. We wanted to make it as simple</p> <p>10 as possible, so we took out extra -- I think, she</p> <p>11 wants to see it.</p> <p>12 MS. PAIKOWSKY: Would you mind if I see it?</p> <p>13 MR. BRYANT: Absolutely.</p> <p>14 MS. PAIKOWSKY: Thanks so much.</p> <p>15 Q. BY MR. BRYANT: And the -- Miss Miss</p> <p>16 Callanen are all -- you -- you handed me three --</p> <p>17 A. Here's another one.</p> <p>18 Q. -- examples. Are those all the same?</p> <p>19 A. Yes, sir.</p> <p>20 Q. Okay.</p> <p>21 A. That's all I brought.</p> <p>22 MS. PAIKOWSKY: And if it's helpful, I</p> <p>23 actually have a color version of the previous</p> <p>24 exhibit.</p> <p>25 MR. BRYANT: That's great. Okay.</p>	<p style="text-align: right;">Page 61</p> <p>1 another deep dive on it and we think this is simpler.</p> <p>2 We -- we changed it a little bit.</p> <p>3 Q. And when you say, "this," you're referring</p> <p>4 to JC3, Exhibit 13?</p> <p>5 A. Yes, sir.</p> <p>6 Q. Okay.</p> <p>7 A. I'm sorry.</p> <p>8 Q. It's just -- it's often a written --</p> <p>9 written process, so we got to refer to exhibits. Did</p> <p>10 you observe in -- in Bexar County, in connection with</p> <p>11 the November 2022 general election, changes in the</p> <p>12 level of voter understanding of the mail-in voting</p> <p>13 process?</p> <p>14 A. Absolutely.</p> <p>15 Q. Could you describe what you observed in</p> <p>16 that regard.</p> <p>17 A. Again, anecdotally, if you want to say,</p> <p>18 number one, you know, the reject rate proves that --</p> <p>19 that we did see that.</p> <p>20 But number two, in the course of the</p> <p>21 election, we noticed that we were having a lessening</p> <p>22 of the phone calls where they were asking for</p> <p>23 assistance. You know, that -- but again, we were</p> <p>24 doing major media. We were doing handouts</p> <p>25 everywhere. We had handouts out at the early voting</p>

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<p style="text-align: right;">Page 62</p> <p>1 sites. We -- we were -- we just sort of threw 2 everything at it that we could because it was just so 3 important. 4 Q. Okay. You were describing some media 5 outreach and voter education efforts that occurred in 6 connection with the November 2022 general election; 7 is that right? 8 A. Yes, sir. 9 Q. Were those efforts that were made 10 specifically in and by Bexar County or were they a 11 broader effort, or both? 12 A. We, the election's office, had our own 13 outreach. But again, members of my commissioner's 14 court entered into it and they did their own outreach 15 for it also, separate and apart from the elections 16 office. 17 Q. Okay. Could you describe as -- as much as 18 you recall, the media outreach that was done to 19 educate voters about mail-in balloting in connection 20 with the November 2022 general election process in 21 Bexar County. 22 A. Sure. I mean, we -- we did press 23 conferences twice a week. We did, again, outreach 24 everywhere we went, every -- every presentation we 25 put on, every meeting we went to. We worked with the</p>	<p style="text-align: right;">Page 64</p> <p>1 time for a break? 2 MR. BRYANT: Certainly. Let's take a 3 break. 4 THE VIDEOGRAPHER: Time is 10:21. 5 Correction, 10:28 a.m. and we are off the record. 6 (A brief recess was taken.) 7 THE VIDEOGRAPHER: Time is 10:38 a.m. and 8 we are on the record. 9 Q. BY MR. BRYANT: Miss Callanen, you were 10 testifying before the break about outreach and voter 11 education efforts that were made in connection with 12 the November 2022 general election. And it sounded 13 to me as if those were fairly extensive and ramped up 14 from previous elections; is that correct? 15 A. Yes, sir. Yes, sir. 16 Q. Do you anticipate looking forward that 17 it'll be necessary to continue to increase and 18 increase the level of effort and expense that Bexar 19 County does on -- on voter education and outreach? 20 Or do you believe that over time the need to do that 21 will level off or decline as people understand better 22 the -- the procedures? 23 MS. PAIKOWSKY: Objection; form. 24 THE WITNESS: I -- I understand your 25 question. I -- again, this is an odd number year, so</p>
<p style="text-align: right;">Page 63</p> <p>1 AARP. We worked with Oasis. We -- we did outreach 2 with the organizations that -- that go to the senior 3 citizens to -- to try and -- we worked very heavily 4 with the disability community. In fact, we're still 5 working with the disability community at this time. 6 So, we -- we -- we just tried to do as much as we 7 could. 8 Q. And during what period of time were those 9 efforts undertaken with respect to the November 2022 10 general election process? 11 A. They started the middle of September 12 through Novem- -- November. Because, again, the 13 middle of September is basically, again, for us is 14 when that's the go button, because we all have to 15 abide by the MOVE Act, which is the federal military 16 MOVE Act, and that's always 45 days before an 17 election. So, once our ballots go out, it's -- 18 somebody's hit the go button. 19 Q. Did Bexar County comply with that 45-day 20 requirement in connection with the general 21 election -- 22 A. Absolutely. 23 Q. -- in 2022? 24 A. Absolutely. 25 MR. GENECHIN: David, would this be a good</p>	<p style="text-align: right;">Page 65</p> <p>1 we will have so many less people. And I think we 2 will have to duplicate our media outreach for 2024. 3 Because, again, you keep hearing me say we had 40,000 4 now and 124,000. So that, to me, is there's another 5 80,000 that have not used the new method. 6 So, we're going to stay attuned to that and 7 stay focused on that. So, I expect that when we get 8 to the 2024 we'll duplicate what we've done. 9 Q. BY MR. BRYANT: Okay. Do you have any 10 expectations on that subject beyond 2024? 11 A. No, sir. 12 Q. Okay. You testified earlier about efforts 13 that your office makes to contact people whose 14 mail-in ballots have initially been rejected. And I 15 believe you indicated that sometimes that's by 16 e-mail, sometimes that's by phone. 17 Could you describe the extent and 18 regularity of those efforts that were undertaken in 19 connection with the November 2022 general election. 20 A. Yes, sir. Well, in SB-1 it opened up the 21 door for us to be able to have outreach so that they 22 could cure their -- their ballots, that's the phrase 23 we use, they could cure their ballots. And they 24 opened up the avenue of the phone and by e-mail as 25 opposed to sending them the hard copy reject and</p>

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<p style="text-align: right;">Page 142</p> <p>1 Q. BY MS. PAIKOWSKY: Why do you think your 2 county's rejection rate was lower than the statewide 3 rate? 4 A. Because I'm proud of our insert and the 5 work we did. 6 Q. Do you think that other counties have the 7 same level of resources and expertise as Bexar County 8 to implement the kinds of interventions you 9 discussed? 10 MS. CUBRIEL: Objection; form. 11 THE WITNESS: I had made reference to that 12 before that, you know, prior to 2020, I would have 13 answered, yes. But since we've had such a turnover 14 in election leadership, I -- I think it's really hard 15 for a new person to get all the nuances and 16 understand how you have to touch your voters. 17 Q. BY MS. PAIKOWSKY: Do economic resources 18 factor into county's ability to implement the kinds 19 of solutions you did in Bexar County in November of 20 2022? 21 A. I would say absolutely. 22 Q. So, earlier, you mentioned that the 23 November 2022 general election ran more smoothly than 24 the November 2020 election. Can you describe more 25 about why that was.</p>	<p style="text-align: right;">Page 144</p> <p>1 Q. Do you believe that the November 2022 2 general election was smoother than the 2018 general 3 election? 4 A. No. They were the same. 5 Q. Okay. As compared to the 2018 general 6 election, was mail voting more difficult in the 2022 7 general election? And I'm referring to both 8 processing mail ballots and voter education. 9 A. Yes. 10 Q. Why is that? 11 A. With the ID requirement. The new -- you 12 know, the new -- relatively new ID requirement that 13 we didn't have in prior elections. 14 Q. Was there any information that would have 15 been useful to administering mail voting in the 16 general election that was not captured in the TEAM 17 database? 18 A. No. My initial reaction would be, no. But 19 in hindsight, during this back and forth -- I mean, 20 if -- if you were looking for multiples, you know, 21 maybe we would open up that for multiples. But as an 22 administrator doing the election at the time, no. 23 Q. Does your county keep any data on ABBM 24 rejections that is not reflected in TEAM? 25 A. No.</p>
<p style="text-align: right;">Page 143</p> <p>1 A. Again, just sheer numbers. It -- it -- it 2 basically was just a numbers thing. Because as we 3 talked about mainly, you know, the mail ballots, when 4 you're dealing with 124,000 going out and 92,000 5 coming back, our office, because we do, we handle 6 everything in house, every single piece of it is 7 handled in house, in 2020 my office, we were -- we 8 were working two shifts. We didn't have to do that 9 in 2022. 10 In 2020, we were, I think, since you had 11 asked, we did, like, 1,200 voters that we had -- 12 workers that we had to put out there. Well, in 13 2022 -- or 2020, because we expected more voters, we 14 had more workers. And so we were, like, at 1,800. 15 And so, that's what I'm speaking to, the 16 more complexities, it's -- takes longer to get 1,800 17 people than it does to get 1,200. It takes longer to 18 do 124 applications than it does to do 40. 19 Q. And in the differences between the 20 November '22 general election and the November '20 21 general election, would you say that COVID-19 also 22 impacted the smoothness of one election as compared 23 to the other? 24 A. No, because we had that figured out prior 25 to that November.</p>	<p style="text-align: right;">Page 145</p> <p>1 Q. Does your county keep any data on carrier 2 envelope rejections that is not reflected in TEAM? 3 A. No. 4 Q. I think that is all my questions. 5 MS. PAIKOWSKY: I would like to go off the 6 record if that's okay for just maybe five minutes and 7 we can chat and then come back on. 8 THE VIDEOGRAPHER: The time is 1:27 p.m. 9 and we are off the record. 10 (A brief recess was taken.) 11 THE VIDEOGRAPHER: The time is 1:33 p.m. 12 and we are on the record. 13 MS. PAIKOWSKY: And I am going to pass the 14 witness at this time. 15 MR. GENECCIN: Thank you. 16 17 EXAMINATION 18 BY MR. GENECCIN: 19 Q. Good afternoon, Miss Callanen. 20 A. Good afternoon, sir. 21 Q. My name is Victor Genecin. 22 A. Victor. I said, "Dennis." I'm sorry. 23 Q. And I've got a few questions for you. Just 24 a little while ago, when you were answering 25 Ms. Paikowsky's questions, you cited the number</p>

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

LA UNION DEL PUEBLO ENTERO, et al.,
Plaintiffs,

v.

GREGORY W. ABBOTT, et al.,
Defendants.

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§
§
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§

Case No. 5:21-cv-844-XR

STATE DEFENDANTS' BRIEF IN RESPONSE TO
THE UNITED STATES' MOTION FOR SUMMARY JUDGMENT

APPENDIX I

JANE NELSON, et al.,
Defendants,

Case No. 1:21-cv-0786-XR

Jennifer Colvin

March 21, 2023

Pages 2 to 5

Page 2	Page 4
<p>1 MI FAMILIA VOTA, et § al., § 2 Plaintiffs, § § 3 v. § Case No. 5:21-cv-0920-XR § 4 GREG ABBOTT, et al., § Defendants. § 5 6 7 8 9 ORAL AND VIDEOTAPED DEPOSITION OF 10 JENNIFER COLVIN 11 MARCH 21, 2023 12 13 14 15 ORAL AND VIDEOTAPED DEPOSITION OF JENNIFER COLVIN, 16 produced as a witness at the instance of the Defendants 17 and duly sworn, was taken in the above styled and 18 numbered cause on Tuesday, March 21, 2023, from 19 12:20 p.m. to 3:43 p.m., before DONNA QUALLS, Notary 20 Public in and for the State of Texas, reported by 21 computerized stenotype machine, at the offices of Harris 22 County Attorney's Office, 1019 Congress Street, 15th 23 Floor, Houston, Texas, pursuant to the Federal Rules of 24 Civil Procedure, and any provisions stated on the record 25 or attached hereto.</p>	<p>1 LEIGH TOGNETTI (Via Zoom) LISA CUBRIEL, BEXAR COUNTY (Via Zoom) 2 LUCIA ROMANO (Via Zoom) MIKE STEWART, DOJ (Via Zoom) 3 URUJ SHEIKH, LDF (Via Zoom) ZACHARY DOLLING, TCRP, OCA (Via Zoom) 4 REGGIE WRIGHT, THE VIDEOGRAPHER 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>
Page 3	Page 5
<p>1 A P P E A R A N C E S 2 3 FOR THE HARRIS COUNTY ELECTIONS ADMINISTRATOR: SAMEER S. BIRRING TIFFANY BINGHAM 4 OFFICE OF THE HARRIS COUNTY ATTORNEY CHRISTIAN D. MENEFEE 5 1019 Congress, 15th Floor Houston, Texas 77002 6 (713) 274-5142 sameer.birring@harriscountytexas.gov 7 8 FOR THE HOUSTON AREA URBAN LEAGUE (HAUL) PLAINTIFFS: JENNIFER A. HOLMES 9 NAACP Legal Defense and Educational Fund, Inc. 700 14th Street N.W., Suite 600 10 Washington, District of Columbia 20005 (347) 573-0197 11 jholmes@naacpldf.org 12 13 FOR THE UNITED STATES: DANA PAIKOWSKY 14 U.S. DEPARTMENT OF JUSTICE 950 Pennsylvania Avenue, NW Washington, District of Columbia 20530 15 (202) 353-5225 dana.paikowsky@usdoj.gov 16 17 FOR THE STATE DEFENDANTS: KATHLEEN T. HUNKER 18 OFFICE OF THE ATTORNEY GENERAL P.O. BOX 12548 (MC-009) 19 AUSTIN, TEXAS 78711-2548 (512) 463-2100 20 kathleen.hunker@oag.texas.gov 21 22 Also Present: STEPHEN KENNY (Via Zoom) BRADLEY PROWANT (Via Zoom) 23 BREANNA WILLIAMS, NAACP (Via Zoom) CARRIE LEBEL (Via Zoom) 24 GERMAINE HABELL (Via Zoom) JOHN GORE, GOP (Via Zoom) 25 JOHN SULLIVAN BAKER, DOJ (Via Zoom)</p>	<p>1 INDEX 2 PAGE 3 4 Appearances..... 3 5 JENNIFER COLVIN 6 Examination by Ms. Hunker..... 7 7 Examination by Ms. Paikowsky..... 47 8 Examination by Ms. Holmes..... 74 9 Further Examination by Ms. Hunker..... 92 10 11 Corrections & Signature..... 104 12 Reporter's Certificate..... 106 13 14 EXHIBIT INDEX 15 16 NUMBER DESCRIPTION PAGE 17 Exhibit 11 Election reconciliation 24 18 official totals 19 Exhibit 12 Defendant Harris County 38 20 Elections Administrator, Clifford Tatum's responses and objections to state defendants' 21 second set of interrogatories, and third set of requests for Production 22 Exhibit 13 Ballot insert 41 23 Exhibit 14 Ballot insert 53 24 Exhibit 15 Call log spreadsheet 77 25 Exhibit 16 Harris County Elections 89 Administrator, Clifford Tatum's supplemental responses to state defendants' second set of interrogatories</p>

Jennifer Colvin

March 21, 2023
Pages 14 to 17

<p style="text-align: right;">Page 14</p> <p>1 A. Yes.</p> <p>2 Q. And you also occupied this position for the May</p> <p>3 local election and primary runoff that were both held in</p> <p>4 May?</p> <p>5 A. Correct.</p> <p>6 Q. And then you also occupied this position for</p> <p>7 the 2022 general election; is that right?</p> <p>8 A. Correct.</p> <p>9 Q. And approximately how many full-time employees</p> <p>10 work under your supervision?</p> <p>11 A. Sixteen.</p> <p>12 Q. And do you know how many full-time employees</p> <p>13 work for the Harris County Elections Administrator's</p> <p>14 Office generally?</p> <p>15 A. I don't have that number.</p> <p>16 Q. And did you increase the number from 16 in the</p> <p>17 lead-up for the November 2022 election?</p> <p>18 A. Full-time employees, no.</p> <p>19 Q. Did you hire temporary employees?</p> <p>20 A. We did.</p> <p>21 Q. And is that common practice in your office?</p> <p>22 A. It is for every election.</p> <p>23 Q. And how many did you add?</p> <p>24 A. For the November?</p> <p>25 Q. That's correct.</p>	<p style="text-align: right;">Page 16</p> <p>1 this particular report?</p> <p>2 A. I provided some information for this report.</p> <p>3 Q. And what information would that have been?</p> <p>4 A. Any numbers -- anything pertaining to ballot by</p> <p>5 mail.</p> <p>6 Q. So let's turn to page 15. And do you see where</p> <p>7 it has "Subsection 4, Early Voting Operations"?</p> <p>8 A. I do.</p> <p>9 Q. And the first sentence reads: "Early Voting</p> <p>10 operations include ballot by mail and in-person voting</p> <p>11 at EVCs."</p> <p>12 Did I read that correctly?</p> <p>13 A. Correct.</p> <p>14 Q. And then let's go to the next subsection which</p> <p>15 is "Subsection A, Ballot By Mail."</p> <p>16 Do you see that?</p> <p>17 A. I do.</p> <p>18 Q. Okay. And so my first question is going to be</p> <p>19 quite general. Did you implement any changes in your</p> <p>20 voting-by-mail procedures between the May elections and</p> <p>21 the November 2022 general election?</p> <p>22 A. The only change would be the form that we</p> <p>23 mailed out with our ballots.</p> <p>24 Q. Okay. And I will address that in a little bit.</p> <p>25 A. Okay.</p>
<p style="text-align: right;">Page 15</p> <p>1 A. In total, approximately 100.</p> <p>2 Q. And is that about expected for a general</p> <p>3 election?</p> <p>4 A. It depends on the number of applications we</p> <p>5 receive, but, yes.</p> <p>6 Q. And so let's start with Topic No. 4. Topic 4</p> <p>7 reads: "Your policies, practices, and procedures</p> <p>8 regarding mail-in voting during the November 8, 2022,</p> <p>9 general election.</p> <p>10 Did I read that correctly?</p> <p>11 A. Yes.</p> <p>12 Q. And to do that, I want you to turn your</p> <p>13 attention to Exhibit 4. This is -- should be in your</p> <p>14 pile.</p> <p>15 A. Exhibit 4?</p> <p>16 Q. Uh-huh.</p> <p>17 A. Okay.</p> <p>18 Q. Do you have the exhibit in front of you?</p> <p>19 A. I do.</p> <p>20 Q. And do you recognize this exhibit?</p> <p>21 A. I do.</p> <p>22 Q. And what is it?</p> <p>23 A. It's the Harris County Administrator's report</p> <p>24 on the election.</p> <p>25 Q. Did you participate at all in the drafting of</p>	<p style="text-align: right;">Page 17</p> <p>1 Q. And you're referring to the ballot insert; is</p> <p>2 that right?</p> <p>3 A. Yes.</p> <p>4 Q. So the first sentence reads: "All mail ballots</p> <p>5 returned by voters were delivered to the NRG Arena and</p> <p>6 reviewed and processed by the Signature Verification</p> <p>7 Committee."</p> <p>8 Did I read that correctly?</p> <p>9 A. You did.</p> <p>10 Q. And just for clarification, can you please tell</p> <p>11 me what is a signature verification committee?</p> <p>12 A. It's a group of both political parties.</p> <p>13 They're appointed by their -- the parties, and they come</p> <p>14 in to review -- it'll -- for instance, it's five Dems,</p> <p>15 five Reps. You have a judge, a presiding judge and an</p> <p>16 alternate judge, one of each party. And then they come</p> <p>17 in and review the ballots to make sure the ID and</p> <p>18 signature match.</p> <p>19 Q. And so I just want to understand the procedure.</p> <p>20 So when a ballot by mail is delivered to the early</p> <p>21 voting clerk, what happens to that particular ballot?</p> <p>22 Like how is it processed?</p> <p>23 A. We receive the ballot in, and we image it.</p> <p>24 We -- once we image it, it goes to -- it gets put in a</p> <p>25 tub for the board. It's sealed, and we log it. Once</p>

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<p style="text-align: right;">Page 18</p> <p>1 the board sends members, we start -- they send in a</p> <p>2 couple of members to help our team -- they designate our</p> <p>3 team to pull the flaps to check for IDs. Once we start</p> <p>4 doing that, we process any that don't have IDs -- we</p> <p>5 mail back to the voters to get them a chance to cure</p> <p>6 that ballot. Any -- all the rest of them are put back</p> <p>7 in the tubs, and we hold them until the SVC convenes.</p> <p>8 Q. Okay. And so you mentioned that in your county</p> <p>9 the early voting clerk removes the flap to determine</p> <p>10 whether or not the numbers were added; is that correct?</p> <p>11 A. Correct. Well, us and some of the board</p> <p>12 members. It's a group effort depending on the quantity.</p> <p>13 Q. And this is to determine whether or not the</p> <p>14 voter put down their either their social security or</p> <p>15 Texas ID number?</p> <p>16 A. Correct.</p> <p>17 Q. And how do you contact the voter if you</p> <p>18 determine that the voter did not put down an ID number?</p> <p>19 A. There's multiple ways you can contact them. We</p> <p>20 normally give a phone call, and we send a letter. If</p> <p>21 it's before the ballot board meets, the EVBB convenes,</p> <p>22 we mail them the ballot back.</p> <p>23 Q. Okay. And so are you doing this before this --</p> <p>24 when I say "doing this," I mean removing the flap before</p> <p>25 the signature verification committee meets?</p>	<p style="text-align: right;">Page 20</p> <p>1 A. We call on their behalf.</p> <p>2 Q. And according to this report, the signature</p> <p>3 verification committee convened on October 9th; is that</p> <p>4 correct?</p> <p>5 A. Yes.</p> <p>6 MS. BINGHAM: Object to form. It was the</p> <p>7 19th.</p> <p>8 THE REPORTER: Can you speak up?</p> <p>9 MS. BINGHAM: Tiffany Bingham.</p> <p>10 A. It was October 19th.</p> <p>11 Q. (BY MS. HUNKER) Okay. And do they meet each</p> <p>12 day after that?</p> <p>13 A. Depending on volume. It's not a set schedule.</p> <p>14 Q. And you were -- your office was removing the</p> <p>15 flap. Did you notice that less voters as compared to</p> <p>16 the primary and the May elections were not at --</p> <p>17 including their ID number or social security number?</p> <p>18 MS. HOLMES: Objection to form.</p> <p>19 MS. BINGHAM: Objection to form.</p> <p>20 MS. HUNKER: You can answer the question.</p> <p>21 A. There were less voters that left off the ID.</p> <p>22 Q. (BY MS. HUNKER) And the signature verification</p> <p>23 committee, do they also review the ballot to determine</p> <p>24 whether or not there is a signature match?</p> <p>25 A. They do.</p>
<p style="text-align: right;">Page 19</p> <p>1 A. Yes.</p> <p>2 Q. And so you can contact the voter before the</p> <p>3 signature verification committee meets; is that correct?</p> <p>4 A. Correct.</p> <p>5 Q. And the signature verification committee, they</p> <p>6 then -- how do they then handle the ballot?</p> <p>7 A. The one without the ID or the ones with the ID?</p> <p>8 Q. The ones -- first without the ID. We'll start</p> <p>9 there.</p> <p>10 A. They designate us to send the ballot back to</p> <p>11 the voter on their behalf.</p> <p>12 Q. Okay. And the ones with ID?</p> <p>13 A. The ones with ID, they go through the process</p> <p>14 to compare the numbers to the -- statements in the</p> <p>15 system to make sure that the two match, and then they</p> <p>16 can okay the ballot.</p> <p>17 Q. And do they, too, call the voter?</p> <p>18 A. Go ahead.</p> <p>19 Q. Do they, too, call the voter if they notice</p> <p>20 that they're -- let me strike that.</p> <p>21 How does the Signature verification</p> <p>22 committee contact the voter?</p> <p>23 A. They delegated that to our office.</p> <p>24 Q. And is that when your office would also call</p> <p>25 or --</p>	<p style="text-align: right;">Page 21</p> <p>1 Q. And are they contacted -- the individual voters</p> <p>2 who, let's say, either failed to put their signature or</p> <p>3 had a mismatch, are they contacted the same way?</p> <p>4 A. They are.</p> <p>5 Q. And then what happens when a -- the signature</p> <p>6 verification committee processes the ballot, and then it</p> <p>7 goes to the early voting ballot board?</p> <p>8 A. The signature verification committee can okay</p> <p>9 the ballot. If they have a questionable ballot, that's</p> <p>10 when it -- that goes over to the ballot board.</p> <p>11 Q. So if a ballot is accepted by the signature</p> <p>12 verification committee, it is accepted?</p> <p>13 A. Yes.</p> <p>14 Q. And it only the questionable ballots that move</p> <p>15 to the early voting ballot board; is that correct?</p> <p>16 A. Correct.</p> <p>17 Q. Does the early voting ballot board then have</p> <p>18 any role with respect to matching ID numbers?</p> <p>19 A. They do.</p> <p>20 Q. What is that role?</p> <p>21 A. They take -- they assume the same process as</p> <p>22 the SVC.</p> <p>23 Q. And how do you contact the voter once the early</p> <p>24 voting ballot board meets?</p> <p>25 A. We keep the ballot in our possession and notify</p>

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<p style="text-align: right;">Page 30</p> <p>1 returned -- those are ballots that were just not 2 returned by the voter, correct? 3 A. Right. They had no return status in our 4 system. 5 Q. What about mail ballots surrendered? 6 A. Those are voters that surrendered their ballots 7 at the poll if they wanted to vote early on Election 8 Day. 9 Q. And for a voter who did not include their ID 10 number or had a mismatched ID number, were they then 11 able to return their ballot and vote in person if they 12 had time? 13 A. Yes. 14 Q. And so the mail ballot surrendered, does that 15 include those individuals? 16 A. It could possibly. 17 Q. Okay. And then mail ballots not countable, 18 what does that mean? 19 A. That would mean they either came in after the 20 election. They were late ballots. They're not 21 countable ballots. 22 Q. And so the -- with the exception of the mail 23 ballots not countable, the other numbers are all ballots 24 that would have been received before the ballot-received 25 deadline the day after the election?</p>	<p style="text-align: right;">Page 32</p> <p>1 ID number defect by e-mail and have it resolved by 2 e-mail and returned? 3 A. Correct. 4 Q. And did you observe that, looking at the 5 rejected ballot, generally, that some ballots had 6 multiple defects, not just one? 7 A. Yes. 8 Q. Now, when you're reporting that defect, do you 9 put only one reason, or do you put the fact that there 10 were multiple defects? 11 A. VOTEC only allows us to put one reason. The 12 voter will get a letter for both reasons. 13 Q. So there are some voters who may be listed as 14 having one defect but their ballot in fact had 15 multiple -- is that correct? -- in your system? 16 MS. HOLMES: Objection to form. 17 MS. HUNKER: You can answer the question. 18 A. Correct. Well, let me -- let me elaborate. 19 Both of the letters will be in the system. So if a 20 voter were to call us, we can see both letters that were 21 sent. So we can tell them, yes, there was more than one 22 defect. But as far as reporting to the State, you can 23 only send one code. 24 Q. (BY MS. HUNKER) And so your reports to the 25 State only reflect one defect, not the -- not if there</p>
<p style="text-align: right;">Page 31</p> <p>1 A. Yes. 2 Q. Thank you. And let's go back to page 16. And 3 so it says "The EOA processed over 80,000 mail ballot 4 applications as reflected in the table below." 5 Did I read that correctly? 6 A. Yes. 7 Q. Okay. 8 A. EAO. 9 Q. EAO. 10 A. Yes. 11 Q. Thank you. And so we have domestic versus 12 UOCAVA voters, correct? 13 A. Yes. 14 Q. When a military or overseas voter did not 15 include an ID or had -- let's say had a defect in their 16 ballot, how would you go about contacting that military 17 voter? 18 A. Via e-mail or phone. 19 Q. And a military voter has the option of 20 resubmitting their signature sheet; is that correct? 21 A. Correct. 22 Q. And can they resubmit -- resubmit that 23 signature sheet via e-mail? 24 A. Correct. 25 Q. And so you can contact a military voter about a</p>	<p style="text-align: right;">Page 33</p> <p>1 were multiple defects? 2 A. Correct. 3 Q. And looking specifically at the UOCAVA voters 4 who had their ballots rejected, did you look at the 5 reasons why those ballots were rejected? 6 A. Not each one individually, no. 7 Q. Were they rejected for a variety of reasons? 8 A. Yes. 9 Q. And so I just want to talk a little bit about a 10 little later on page where it says "Mail ballot problems 11 encountered," second paragraph specifically. It says: 12 "During the mail ballot period, the EAO received reports 13 that voters were not receiving" bal- -- "mail ballots 14 and that voters were being charged extra postage because 15 of the size of the carrier envelope." 16 Did I read that correctly? 17 A. Yes. 18 Q. And did your office ever determine why certain 19 voters were not receiving their ballots? 20 A. No. 21 Q. And for the voters who were not receiving their 22 ballots, the ballot was sent. It just was not received; 23 is that correct? 24 A. Correct. 25 Q. And so there was some issue with the postal</p>

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<p style="text-align: right;">Page 98</p> <p>1 A. We had less. There were more rejects due to ID 2 in previous elections. 3 Q. (BY MS. HUNKER) Now, you had spoken a little 4 bit with counsel about the different codes for when a 5 ballot was rejected for an ID requirement. Is there a 6 separate code if there's a rejection due to lack of 7 signature? 8 A. Yes. 9 Q. Do you recommend that voters put down their 10 phone number or e-mail when they're applying to vote by 11 mail? 12 A. Does our office recommend it? 13 Q. Yes. 14 A. Yes. So we can reach out to the voters if 15 there's a problem with their application. 16 Q. And do you find that most voters follow through 17 on your recommendation? 18 A. We get a lot of phone numbers and e-mails. 19 Q. You also discussed with counsel about that 20 there were occasions where the county voting system had 21 two IDs but the TEAM's database only had one. 22 Do you recall that conversation? 23 A. Yes. 24 Q. When you notice that the county database has 25 two ID numbers but the TEAM's database only has one, do</p>	<p style="text-align: right;">Page 100</p> <p>1 receiving very minimal applications right now. 2 Q. Okay. To your knowledge, has Harris County 3 ever had a rejection rate for ballots by mail that was 4 zero? 5 A. No. 6 Q. And so I want to turn to Exhibit 16 which was 7 provided by your office during this deposition. 8 A. 16. 9 Q. Yes. This is the updated... 10 A. Oh, my apologies. It's right in front of me. 11 Q. So looking at -- let me take a step back. 12 Are you using the same database, offline 13 database, in 2022, as you were in these previous 14 elections? 15 A. Yes. 16 Q. And how did you come to these rejection rates 17 for previous elections? 18 A. From numbers within the voter management 19 system. 20 Q. Were you required to report rejections prior to 21 2022? 22 A. Yes. 23 Q. And was that reported to the secretary of 24 state's office? 25 A. Yes.</p>
<p style="text-align: right;">Page 99</p> <p>1 you inform the secretary of state's office to update the 2 TEAM's database? 3 A. No. 4 Q. And do you know if there's -- if there's a 5 policy or procedure that perhaps your tech division has 6 with respect to updating? 7 A. I don't know. 8 Q. Okay. If the county database only has one 9 number but the TEAM's database has two numbers and the 10 number the voter put is the one that was in the TEAM's 11 database but not the one in the county's database, you 12 would accept that ballot; is that correct? 13 A. Correct. 14 Q. There's an option for voters with disabilities 15 as well as voters over 65 to submit an application for 16 ballot by mail for the entire year, correct? 17 A. Correct. Annual. 18 Q. And you've already started receiving annual 19 applications for the 2023? 20 A. That's correct. 21 Q. And did you notice fewer rejections for the 22 applications that were submitted this year due to the ID 23 mismatch or lack of ID as compared to previous elections 24 in 2022? 25 A. I haven't analyzed that data, but we're</p>	<p style="text-align: right;">Page 101</p> <p>1 Q. And so in previous elections, Texas utilized 2 signature verification, correct? 3 A. Yes. 4 Q. And do you know if the signature verification 5 committee utilized the same standard election from 6 election? 7 MS. HOLMES: Objection to form. 8 A. Yes. 9 Q. (BY MS. HUNKER) And did they utilize the same 10 standard election to election? 11 MS. HOLMES: Objection to form. 12 A. Repeat that. 13 Q. (BY MS. HUNKER) So my first question was did 14 you know if they did, and then I realized that was maybe 15 not clear. And so I just wanted to clarify, did they 16 use the same standard for signature verification 17 election from election? 18 A. Prior to SB1, they didn't have to compare IDs. 19 But after SB1, they had to compare IDs. That's the 20 difference in their processes. 21 Q. So I think I maybe, then, asked a confusing 22 question. So I'm talking about the signature 23 verification, not ID -- 24 A. Only their signature verification? 25 Q. Only their signature verification. So there</p>

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

LA UNION DEL PUEBLO ENTERO, et al.,
Plaintiffs,

v.

GREGORY W. ABBOTT, et al.,
Defendants.

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Case No. 5:21-cv-844-XR

STATE DEFENDANTS' BRIEF IN RESPONSE TO
THE UNITED STATES' MOTION FOR SUMMARY JUDGMENT

APPENDIX J

Jacqueline Doyer

March 29, 2023

1 IN THE UNITED STATES DISTRICT COURT
 2 FOR THE WESTERN DISTRICT OF TEXAS
 3 SAN ANTONIO DIVISION

3 LA UNION DEL PUEBLO)
 4 ENTERO, ET AL.,)
 5 Plaintiffs,)
 6 VS.) CIVIL ACTION NO.
 7) 5:21-CV-844 (XR)
 8 STATE OF TEXAS, ET AL.,)
 9 Defendants.)

10 -----
 11 ORAL DEPOSITION OF
 12 JACQUELINE DOYER
 13 MARCH 29, 2023
 14 -----

15
 16
 17 ORAL DEPOSITION OF JACQUELINE DOYER,
 18 produced as a witness at the instance of the Defendants,
 19 and duly sworn, was taken in the above-styled and
 20 numbered cause on the 29th day of March, 2023, from
 21 3:14 p.m. to 4:03 p.m., before JAZZMEN CANALES, CSR, in
 22 and for the State of Texas, reported by machine
 23 shorthand at 209 West 14th Street, Austin, Texas 78701,
 24 pursuant to the Texas Rules of Civil Procedure and the
 25 provisions stated on the record or attached hereto.

Jacqueline Doyer

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Pages 2 to 5

<p style="text-align: right;">Page 2</p> <p>1 APPEARANCES</p> <p>2 FOR THE PLAINTIFFS:</p> <p>3 MS. NINA PERALES</p> <p>4 MALDEF</p> <p>5 110 Broadway, Suite 300</p> <p>6 San Antonio, Texas 78205</p> <p>7 210-224-5476</p> <p>8 E-mail: nperales@maldef.org</p> <p>9 FOR THE HOUSTON AREA URBAN LEAGUE PLAINTIFFS:</p> <p>10 MR. VICTOR GENECIN (Via Videoconference)</p> <p>11 NAACP Legal Defense and Educational Fund, Inc.</p> <p>12 40 Rector Street, 5th Floor</p> <p>13 New York, New York 10006</p> <p>14 929-388-9246</p> <p>15 E-mail: vgenecin@naacpldf.org</p> <p>16 FOR THE DEFENDANTS:</p> <p>17 MS. KATHLEEN HUNKER</p> <p>18 MR. ETHAN SZUMANSKI</p> <p>19 MR. ADAM BITTERS</p> <p>20 Office of the Attorney General of Texas</p> <p>21 P.O. Box 12548</p> <p>22 Austin, Texas 78711</p> <p>23 512-936-2275</p> <p>24 E-mail: kathleen.hunker@oag.texas.gov</p> <p>25 FOR THE UNITED STATES:</p> <p>MR. MICHAEL STEWART</p> <p>MR. DANIEL FREEMAN</p> <p>MR. RICHARD DELLHEIM</p> <p>U.S. Department of Justice</p> <p>950 Pennsylvania Avenue NW</p> <p>Washington, D.C. 20530</p> <p>202-307-2767</p> <p>E-mail: michael.stewart3@usdoj.gov</p>	<p style="text-align: right;">Page 4</p> <p>1 THE COURT REPORTER: At this time, the</p> <p>2 deposition of Jacqueline Hagan Doyer is being taken in</p> <p>3 the United States District Court For the Western</p> <p>4 District of Texas, San Antonio Division, Civil Action</p> <p>5 No. 5:21-cv-844 (XR), styled La Unión Del Pueblo Entero,</p> <p>6 et al. vs. State of Texas, et al. This deposition is</p> <p>7 being taken at The Price Daniel Sr. State Office</p> <p>8 Building, 209 West 14th Street, Austin, Texas 78701.</p> <p>9 The court reporter is Jazzmen Canales. May counsel</p> <p>10 please state your appearances,</p> <p>11 MR. STEWART: Michael Stewart for the</p> <p>12 United States. With me is Daniel Freeman and Richard</p> <p>13 Dellheim.</p> <p>14 MS. PERELAS: Nina Perales of Plaintiff</p> <p>15 LUPE, L-U-P-E, et al.</p> <p>16 MR. STEWART: Anyone who plans to ask</p> <p>17 questions to the Zoom?</p> <p>18 MS. HUNKER: Kathleen Hunker with Ethan</p> <p>19 Szumanski from the Office of the Texas Attorney General</p> <p>20 representing State Defendants individual legislators.</p> <p>21 With me is Adam Bitter and Zina Chala from the Office of</p> <p>22 the Secretary of State.</p> <p>23 JACQUELINE HAGAN DOYLE,</p> <p>24 having been first duly sworn, testified as follows:</p> <p>25</p>
<p style="text-align: right;">Page 3</p> <p>1 INDEX</p> <p>2 PAGE</p> <p>3 Appearances..... 2</p> <p>4 JACQUELINE DOYER</p> <p>5 Examination By Mr. Stewart..... 5</p> <p>6 Examination By Mr. Genecin..... 36</p> <p>7</p> <p>8 Changes and Signature Page 41</p> <p>9</p> <p>10 Reporter's Certificate 43</p> <p>11</p> <p>12 EXHIBITS</p> <p>13 NUMBER DESCRIPTION PAGE</p> <p>14 23 Audit report 9</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 5</p> <p>1 EXAMINATION</p> <p>2 BY MR. STEWART:</p> <p>3 Q. Good afternoon. Do you prefer Doyer or Hagan</p> <p>4 Doyer?</p> <p>5 A. Doyer.</p> <p>6 Q. First question, you did great. So as we just</p> <p>7 said, I am here on behalf of the United States. My name</p> <p>8 is Mike Stewart. My understanding you are here as</p> <p>9 representative of the Secretary of State's office today;</p> <p>10 is that correct?</p> <p>11 A. That's correct.</p> <p>12 Q. Okay. Thank you. And I am understanding that</p> <p>13 you are here to testify about the audit-related</p> <p>14 questions in the notice of deposition; is that correct?</p> <p>15 A. I understood with regard to the audit report</p> <p>16 and the specified sections of the report.</p> <p>17 Q. Great. Thank you. Have you been deposed</p> <p>18 before?</p> <p>19 A. I have not.</p> <p>20 Q. Okay. So before we start, I just want to real</p> <p>21 quickly go through ground rules that will set us up</p> <p>22 smoothly. So a deposition, as you probably see, it goes</p> <p>23 by question and answer. The reporter can only take down</p> <p>24 what you say out loud, so all your answers need to be</p> <p>25 verbal. Is that okay?</p>

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Pages 6 to 9

<p style="text-align: right;">Page 6</p> <p>1 A. Yes, sir.</p> <p>2 Q. I will try my best not to talk over you, and if</p> <p>3 you can wait until I am finished asking the question,</p> <p>4 that will work best. If ever I cut you off, just let me</p> <p>5 know, and we can make sure your full answer gets on the</p> <p>6 record. Okay?</p> <p>7 A. Yes.</p> <p>8 Q. So it is important to answer completely and</p> <p>9 accurately to the best of your ability. Do you</p> <p>10 understand that?</p> <p>11 A. Yes.</p> <p>12 Q. Great. If I ever ask a question that is</p> <p>13 unclear, you can ask me for clarification. Okay?</p> <p>14 A. Yes.</p> <p>15 Q. Your attorney or attorney for another party may</p> <p>16 object. That's fine. And I will give them a second</p> <p>17 before you answer to allow them to object. But unless</p> <p>18 you are instructed not to answer or there is a privilege</p> <p>19 basis not to answer, you can go ahead and answer the</p> <p>20 question regardless. Okay?</p> <p>21 A. Yes.</p> <p>22 Q. Once the question is pending, I will just ask</p> <p>23 that you answer that question before you consult with</p> <p>24 your attorney or anything. Is that okay?</p> <p>25 A. I understand.</p>	<p style="text-align: right;">Page 8</p> <p>1 Q. Anyone else?</p> <p>2 A. I met with Adam Bitter.</p> <p>3 Q. And anyone else?</p> <p>4 A. I met with Zina Chala.</p> <p>5 Q. Is that all?</p> <p>6 A. I also met with the members of the FAD team.</p> <p>7 Q. Okay. And those would be -- and do those</p> <p>8 individuals report to you on the FAD team?</p> <p>9 A. Some of them.</p> <p>10 Q. Some of them. And what were their roles?</p> <p>11 A. I have auditors that report to me, and then I</p> <p>12 also have a legal assistant that reports to me.</p> <p>13 Q. Okay. And when we say -- when you say FAD</p> <p>14 team, that's the Forensic Audit Division of the</p> <p>15 Secretary of State?</p> <p>16 A. That is correct.</p> <p>17 Q. Great. Thank you. Did you review any</p> <p>18 documents in the course of your preparation?</p> <p>19 A. I did.</p> <p>20 Q. What documents were those?</p> <p>21 A. I reviewed the audit report.</p> <p>22 Q. Okay. Anything else?</p> <p>23 A. I reviewed portions of the election code.</p> <p>24 Q. Okay. And then did you bring any documents</p> <p>25 with you here today?</p>
<p style="text-align: right;">Page 7</p> <p>1 Q. And then if you need a break -- this should be</p> <p>2 short -- but just let me know, and we can see about</p> <p>3 that. If you later remember something you forgot</p> <p>4 earlier or want to add, just let me know, we can get</p> <p>5 that on the record. Okay?</p> <p>6 A. Understand.</p> <p>7 Q. If you can think of a document that would help</p> <p>8 refresh your recollection, we may have it. Just let me</p> <p>9 know. Okay?</p> <p>10 A. It looks like.</p> <p>11 Q. This is just one, I will say that. And then</p> <p>12 just -- this is a necessary question. But have you</p> <p>13 taken any medication, alcohol, drugs, anything that</p> <p>14 would affect your ability to understand what I am asking</p> <p>15 or give a complete answer today?</p> <p>16 A. No, sir.</p> <p>17 Q. Okay. And then you understand you are under</p> <p>18 oath, subject to penalties for false or misleading</p> <p>19 testimony, correct?</p> <p>20 A. I understand.</p> <p>21 Q. Okay. Great. So how did you prepare to</p> <p>22 testify for this deposition?</p> <p>23 A. I met with my attorneys.</p> <p>24 Q. And who would that be?</p> <p>25 A. I met with Kathleen Hunker.</p>	<p style="text-align: right;">Page 9</p> <p>1 A. I did.</p> <p>2 Q. What did you bring with you?</p> <p>3 A. I brought a copy of the audit report and a copy</p> <p>4 of the letter we sent to Harris County.</p> <p>5 Q. Okay. Thank you. So -- and then just real</p> <p>6 quickly. Can you tell me what your role is in the</p> <p>7 Forensic Audit Division?</p> <p>8 A. I am the deputy and legal director for the</p> <p>9 division.</p> <p>10 Q. And how long have you been in that role?</p> <p>11 A. I was promoted in that role in November of</p> <p>12 2022.</p> <p>13 Q. Okay. Thank you. Were you with the Forensic</p> <p>14 Audit Division before that?</p> <p>15 A. I was.</p> <p>16 Q. What was your role then?</p> <p>17 A. I served as the attorney to the division.</p> <p>18 Q. And when did you begin that?</p> <p>19 A. April of 2022.</p> <p>20 Q. Is that when you first joined the audit</p> <p>21 division?</p> <p>22 A. It is.</p> <p>23 Q. Okay. So I am going to mark Exhibit 23.</p> <p>24 (Exhibit 23 marked.)</p> <p>25 Q. (BY MR. STEWART) Do you recognize this</p>

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<p style="text-align: right;">Page 10</p> <p>1 document?</p> <p>2 A. I do.</p> <p>3 Q. What is it?</p> <p>4 A. It appears to be a copy of our final report</p> <p>5 issued in December of 2022.</p> <p>6 Q. Thank you. So what were the goals of the</p> <p>7 forensic audit for which this is the final report?</p> <p>8 A. I believe that's reflected in the executive</p> <p>9 summary.</p> <p>10 Q. Is the executive summary complete and accurate</p> <p>11 as to the goals of the audit?</p> <p>12 A. Yes.</p> <p>13 Q. Who was involved in designing the audit?</p> <p>14 A. I don't understand your question.</p> <p>15 Q. So what individuals within the audit division</p> <p>16 were involved in designing the, shall I say,</p> <p>17 investigative task of the audit?</p> <p>18 MS. HUNKER: Objection. Form.</p> <p>19 A. Can you specify what you mean by design?</p> <p>20 Q. (BY MR. STEWART) Sure. So I guess to say,</p> <p>21 when you determined -- or as the Forensic Audit Division</p> <p>22 was determining, sort of, what to examine and how they</p> <p>23 were going to examine it, who was involved in those</p> <p>24 conversations?</p> <p>25 A. I was involved in those conversations.</p>	<p style="text-align: right;">Page 12</p> <p>1 Q. Were there other types of records you are</p> <p>2 referring to there?</p> <p>3 A. Not that I am aware of.</p> <p>4 Q. Were those records the counties required to</p> <p>5 maintain or additional materials as well?</p> <p>6 A. I want to correct something.</p> <p>7 Q. Sure.</p> <p>8 A. We did get some records from Tarrant County for</p> <p>9 2022. They submitted those in error.</p> <p>10 Q. Okay. But then going back to the previous</p> <p>11 question, were those all records the counties were</p> <p>12 required to maintain, or were there additional materials</p> <p>13 they had that were also provided to you?</p> <p>14 A. They were records they were required to</p> <p>15 maintain, for the most part, or things that they kept as</p> <p>16 a regular practice.</p> <p>17 Q. Got it. Were there any -- besides your review</p> <p>18 of the records provided by the counties, were there any</p> <p>19 specific issues with the 2020 general election that were</p> <p>20 identified as a reason for the audit?</p> <p>21 MS. HUNKER: Objection. Form.</p> <p>22 A. Can you maybe specify what you mean by that?</p> <p>23 Q. (BY MR. STEWART) Yeah. Was there some sort of</p> <p>24 imminence for the audit, either an error or mistake you</p> <p>25 noticed or something that you thought merit an</p>
<p style="text-align: right;">Page 11</p> <p>1 Q. Who else?</p> <p>2 A. Our director.</p> <p>3 Q. Anyone else?</p> <p>4 A. Auditors.</p> <p>5 Q. Anyone outside the division involved in those</p> <p>6 conversations?</p> <p>7 A. The secretary.</p> <p>8 Q. The secretary. Anyone outside the Secretary of</p> <p>9 State's office involved in those conversations?</p> <p>10 A. No.</p> <p>11 Q. Okay. How were the topics for the audit</p> <p>12 chosen?</p> <p>13 A. They were data driven.</p> <p>14 Q. And by data driven, what does that mean?</p> <p>15 A. Based on the records that were provided, we</p> <p>16 evaluated what areas had auditable points.</p> <p>17 Q. And by the records you provided, provided by</p> <p>18 whom?</p> <p>19 A. Provided by the counties to -- directly to the</p> <p>20 Forensic Audit Division or provided by the counties to</p> <p>21 the elections division and then passed on to our</p> <p>22 division.</p> <p>23 Q. Were those records from the 2022 general</p> <p>24 election?</p> <p>25 A. Yes, they were.</p>	<p style="text-align: right;">Page 13</p> <p>1 investigation that was a reason for the audit?</p> <p>2 A. The reason for the audit is reflected in the</p> <p>3 executive summary.</p> <p>4 Q. Okay.</p> <p>5 A. To ensure that all Texas voters can have</p> <p>6 confidence in the election systems in our state.</p> <p>7 Q. Was there a feeling that Texas voters did not</p> <p>8 have confidence?</p> <p>9 MS. HUNKER: Objection. Form.</p> <p>10 A. I am not aware of the feelings that were</p> <p>11 present. I am just here to testify about what's in the</p> <p>12 report.</p> <p>13 Q. (BY MR. STEWART) Fair. The question I am</p> <p>14 trying to ask is, was that statement included in the</p> <p>15 audit report based on an understanding in the Secretary</p> <p>16 of State's office that voters did not have confidence in</p> <p>17 the 2020 general election?</p> <p>18 MS. HUNKER: Objection. Form.</p> <p>19 A. This -- the audit was to ensure that Texas</p> <p>20 voters can have confidence in the election systems in</p> <p>21 our state.</p> <p>22 Q. (BY MR. STEWART) Well, did the Secretary of</p> <p>23 State's office and the Forensic Audit Division have any</p> <p>24 specific information that voters did not have</p> <p>25 confidence?</p>

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<p style="text-align: right;">Page 14</p> <p>1 A. I don't believe the agency has an official 2 position on that.</p> <p>3 Q. Okay. Were there any information requests sent 4 to counties that were not reflected in the final report?</p> <p>5 A. When you say information requests, what do you 6 mean?</p> <p>7 Q. So let me back up then. You -- you mentioned 8 that the audit was based on data and records sent to the 9 audit division by the counties, correct?</p> <p>10 A. Sent to our division by the counties or sent to 11 the election division and then provided to us.</p> <p>12 Q. Okay. So I will broadly refer to the Secretary 13 of State's office, to be clear, because those are both 14 under the Secretary of State, right?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. Was that all items that were reported by 17 the counties in due course, or were there items 18 specifically requested by the Secretary of State's 19 office for the purpose of the audit?</p> <p>20 A. Some of the items reviewed were provided in due 21 course. Some of the items reviewed were provided in 22 response to the request.</p> <p>23 Q. Okay. And were there any specifically 24 requested items by the Secretary of State's office that 25 aren't reflected -- that their requests are not</p>	<p style="text-align: right;">Page 16</p> <p>1 A. No. The audit division's conclusions are 2 reflected in the report.</p> <p>3 Q. Okay. Which entities were being evaluated in 4 the audit report?</p> <p>5 A. When you say entities, do you mean counties?</p> <p>6 Q. Yes.</p> <p>7 A. The counties were Collin County, Dallas County, 8 Harris County, and Tarrant County.</p> <p>9 Q. Was any state governmental entity, other than 10 those four counties, evaluated by the report?</p> <p>11 A. What do you mean by state governmental entity?</p> <p>12 Q. Sure. Whether it is at the state level, county 13 level, municipal level. So taking state agencies, like 14 the AOG's office or the SOS, other counties, or, you 15 know, subdivision of counties, municipalities. Was 16 anything other than those four counties you've 17 identified evaluated by the audit report?</p> <p>18 MS. HUNKER: Objection. Form.</p> <p>19 A. I still don't understand the question.</p> <p>20 Q. (BY MR. STEWART) Sure. Are there any 21 conclusions about the performance of the Secretary of 22 State's office in the 2020 general election in this 23 audit report?</p> <p>24 A. We did not evaluate the Secretary of State's 25 office.</p>
<p style="text-align: right;">Page 15</p> <p>1 reflected somewhere in the body of this report?</p> <p>2 A. I am not sure what you mean by that.</p> <p>3 Q. I guess I am saying, was -- was each 4 information request you made, like a cataloging of it, 5 reflected somewhere in this report?</p> <p>6 A. Information requests are not cataloged in the 7 report.</p> <p>8 Q. So there are -- are there information you 9 received from counties that didn't lead into the final 10 audit report?</p> <p>11 MS. HUNKER: Objection. Form.</p> <p>12 A. We received 369 gigabytes of data, and this is 13 a 359-page report.</p> <p>14 Q. (BY MR. STEWART) Fair.</p> <p>15 A. Not everything is included in the report.</p> <p>16 Q. Let's talk about more categorically. So were 17 there sort of areas -- you know, there's a list of 18 topics here. So sort of topically, was there anything 19 investigated that did not -- or audited, I should say, 20 that did not end up in the final report?</p> <p>21 A. When you say audited that did not end up in the 22 final report, what do you mean by that?</p> <p>23 Q. Let me rephrase it this way. Were there any 24 conclusions the audit division came to that were not 25 included in the final record?</p>	<p style="text-align: right;">Page 17</p> <p>1 Q. Did you evaluate the Attorney General's office?</p> <p>2 A. We did not evaluate the Attorney General's 3 office.</p> <p>4 Q. Did you evaluate any counties other than the 5 four counties identified in the report?</p> <p>6 A. In the report, we only identified the four 7 counties, Collin, Dallas, Harris, and Tarrant County.</p> <p>8 Q. And those were the only counties evaluated by 9 the report?</p> <p>10 A. That's correct.</p> <p>11 Q. Okay. Was the performance of early voting 12 ballot boards in those counties evaluated?</p> <p>13 MS. HUNKER: Objection. Form.</p> <p>14 A. What do you mean by performance?</p> <p>15 Q. (BY MR. STEWART) Well, let me rephrase it. 16 Were aspects of the activities of the early voting 17 ballot boards in those counties evaluated?</p> <p>18 MS. HUNKER: Objection. Form.</p> <p>19 A. What do you mean by evaluated?</p> <p>20 Q. (BY MR. STEWART) Sure. Audited. Did you 21 audit any aspect of, you know, how early voting ballot 22 boards performed their duties?</p> <p>23 MS. HUNKER: Same objection.</p> <p>24 A. When you say audit, can you be more specific?</p> <p>25 Q. (BY MR. STEWART) Yeah. All the activities</p>

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<p style="text-align: right;">Page 18</p> <p>1 conducted in order to prepare this final report.</p> <p>2 MS. HUNKER: Objection. Form.</p> <p>3 A. I still don't understand the question.</p> <p>4 Q. (BY MR. STEWART) Sure. Did you send any</p> <p>5 information requests specifically regarding early voting</p> <p>6 ballot boards?</p> <p>7 A. We did send those type of requests.</p> <p>8 Q. And did you come to any conclusions about the</p> <p>9 performance of early voting ballot boards?</p> <p>10 A. We did not evaluate the performance of early</p> <p>11 voting ballot boards.</p> <p>12 Q. Did you evaluate the performance of any</p> <p>13 signature verification committees?</p> <p>14 MS. HUNKER: Objection. Form.</p> <p>15 A. What do you mean by performance?</p> <p>16 Q. (BY MR. STEWART) I guess I put that back to</p> <p>17 you. When you say you did not evaluate the performance</p> <p>18 of early voting ballot boards, what did you mean by</p> <p>19 that?</p> <p>20 A. We didn't evaluate how they did things.</p> <p>21 Q. Okay.</p> <p>22 A. We evaluated the processes and procedures that</p> <p>23 each county used.</p> <p>24 Q. And by evaluated, were you saying whether they</p> <p>25 were good or bad, or what do you mean by evaluated in</p>	<p style="text-align: right;">Page 20</p> <p>1 in place for tracking some rejected ABBMs. This refers</p> <p>2 to the pre-Senate Bill 1 system, correct?</p> <p>3 MS. HUNKER: Objection. Form.</p> <p>4 A. The law contained in the code -- for the law</p> <p>5 contained in the report that we were evaluating the</p> <p>6 counties on was pre-SB1.</p> <p>7 Q. (BY MR. STEWART) Okay.</p> <p>8 A. That existed in 2020.</p> <p>9 Q. So that's generally applicable to the audit,</p> <p>10 right, that this all from before SB1?</p> <p>11 A. That's correct.</p> <p>12 Q. Okay. Did you make any conclusions in the</p> <p>13 audit report about how the processes or procedures</p> <p>14 evaluated would comply with SB1?</p> <p>15 A. We did not.</p> <p>16 Q. Okay. So in the next paragraph, it says, one</p> <p>17 of the limitations with counties that are not online</p> <p>18 with the TEAM database is the fact that the counties</p> <p>19 must provide uploads to update the data that populates</p> <p>20 TEAM. And then it says, there could be delays between</p> <p>21 the counties reporting and upload to the database,</p> <p>22 attributable to the action of the counties, actions of</p> <p>23 the counties, or their offline vendors. This can</p> <p>24 negatively affect the accuracy of the records contained</p> <p>25 in TEAM. Did I read that correctly?</p>
<p style="text-align: right;">Page 19</p> <p>1 this context?</p> <p>2 A. We asked questions, and then we reported on the</p> <p>3 procedures.</p> <p>4 Q. Okay. And so using that same definition of</p> <p>5 performance you've used for the early voting ballot</p> <p>6 boards, did you evaluate the performance of the</p> <p>7 signature verification committees?</p> <p>8 A. We asked questions for the counties that has</p> <p>9 signature verification committees as to how they did</p> <p>10 things and reported on those procedures.</p> <p>11 Q. Okay. I want to turn to the mail voting</p> <p>12 section of this audit report, which I believe starts on</p> <p>13 Page 198. And just so we are clear for the record, the</p> <p>14 word "TEAM" appears in this report. Does that refer to</p> <p>15 the Texas Election Administration Management database?</p> <p>16 A. It does.</p> <p>17 Q. Okay. And then when you use -- not you, but</p> <p>18 when the SOS uses ABBM in this report, is that</p> <p>19 application for ballot by mail?</p> <p>20 A. Yes, sir.</p> <p>21 Q. And BBM is just the ballot by mail, correct?</p> <p>22 A. Yes, sir.</p> <p>23 Q. Okay. I am going to turn quickly to Page 210</p> <p>24 then. The second paragraph, it says, the counties were</p> <p>25 uniform in that they did not have a system or spreadsheet</p>	<p style="text-align: right;">Page 21</p> <p>1 A. You did.</p> <p>2 Q. Okay. Were all of the audited counties offline</p> <p>3 counties?</p> <p>4 A. Yes, they were all offline counties.</p> <p>5 Q. Did all of them have delays in uploading</p> <p>6 records to TEAM?</p> <p>7 A. That would not be within my knowledge.</p> <p>8 Q. Okay. Do you know who would know that?</p> <p>9 A. Somebody who has more knowledge of the TEAM</p> <p>10 system.</p> <p>11 Q. Would it be someone within the Forensic Audit</p> <p>12 Division who would know that?</p> <p>13 A. No.</p> <p>14 Q. Was any aspect of TEAM evaluated or considered</p> <p>15 during the audit?</p> <p>16 A. What do you mean by that?</p> <p>17 Q. Sure. Was the performance of TEAM evaluated?</p> <p>18 A. Could you specify --</p> <p>19 MS. HUNKER: Objection. Form.</p> <p>20 Q. (BY MR. STEWART) Yeah. Was there anything</p> <p>21 about the accuracy of the records in TEAM that was</p> <p>22 evaluated in the course of the audit?</p> <p>23 A. We were not evaluating TEAM. However, if</p> <p>24 somebody's vote history, as uploaded by the county, was</p> <p>25 inaccurate in TEAM, that's tied to the voter</p>

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<p style="text-align: right;">Page 22</p> <p>1 participating history that's uploaded by the county.</p> <p>2 Q. Okay. Did you find instances where the vote</p> <p>3 history was inaccurate in TEAM?</p> <p>4 A. Yes.</p> <p>5 Q. How frequently did that occur?</p> <p>6 MS. HUNKER: Objection. Form.</p> <p>7 A. The frequency is not in the report.</p> <p>8 Q. (BY MR. STEWART) For the purposes of preparing</p> <p>9 this report, did the Forensic Audit Division look into</p> <p>10 mail ballot impersonation fraud?</p> <p>11 A. What do you mean by that?</p> <p>12 Q. Did you conduct any activities or investigation</p> <p>13 that would reveal mail ballot impersonation fraud?</p> <p>14 MS. HUNKER: Objection. Form.</p> <p>15 A. What type of activities?</p> <p>16 Q. (BY MR. STEWART) I guess that's my question to</p> <p>17 you. Is that something that was being audited? Was</p> <p>18 that within the scope -- let me withdraw that question.</p> <p>19 Was mail ballot fraud within the scope of</p> <p>20 this audit?</p> <p>21 MS. HUNKER: Objection. Form.</p> <p>22 A. I am not sure I understand that question.</p> <p>23 Q. (BY MR. STEWART) Sure. Was -- did you reach</p> <p>24 any conclusions regarding the existence or nonexistence</p> <p>25 of mail ballot fraud in any of these counties?</p>	<p style="text-align: right;">Page 24</p> <p>1 or not mail voter fraud occurred in 2020 for those four</p> <p>2 counties.</p> <p>3 Q. (BY MR. STEWART) I want to look at this</p> <p>4 section on Dallas County, which is on Page 214. And I</p> <p>5 think in that sentence you mentioned difficulties in</p> <p>6 processing the high volume of mail ballots; is that</p> <p>7 correct?</p> <p>8 A. Yes. Dallas County experienced difficulties in</p> <p>9 processing the high volume of ballots by mail due to</p> <p>10 staff turnover that occurred just prior to the 2020</p> <p>11 general election.</p> <p>12 Q. All right. Is there any other reason you</p> <p>13 identified that wasn't included in here, or is that sort</p> <p>14 of the only conclusion made as to the reason for</p> <p>15 difficulty in processing mail ballots in 2020 in Dallas?</p> <p>16 A. I'm sorry. Can you rephrase that?</p> <p>17 Q. Sure. So this mentions the conclusion, you</p> <p>18 know, it gives the reason why there was difficulty in</p> <p>19 processing the high volume of mail ballots. Was there</p> <p>20 any reasons that you discovered that weren't reflected</p> <p>21 in the final report?</p> <p>22 A. No. There's additional reasons reflected on</p> <p>23 214, but not that are absent from the report.</p> <p>24 Q. Nothing that's not in the report?</p> <p>25 A. That's correct.</p>
<p style="text-align: right;">Page 23</p> <p>1 MS. HUNKER: Objection. Form.</p> <p>2 A. We did not reach any conclusions as to whether</p> <p>3 or not there was mail ballot fraud.</p> <p>4 Q. (BY MR. STEWART) Did you assess any procedures</p> <p>5 that might identify whether or not there was mail ballot</p> <p>6 fraud in any of these counties?</p> <p>7 A. Procedures by whom?</p> <p>8 Q. By the counties.</p> <p>9 A. I am not sure that procedures by the counties</p> <p>10 would indicate whether or not there was mail voter</p> <p>11 fraud.</p> <p>12 Q. Okay. Did you assess any procedures by any</p> <p>13 other entity that might indicate whether or not there</p> <p>14 was mail voter fraud?</p> <p>15 A. No. We only assessed the four counties.</p> <p>16 Q. Okay. And so did -- you did assess county</p> <p>17 procedures, though, correct?</p> <p>18 A. Yes.</p> <p>19 Q. And so I am correct in saying -- your testimony</p> <p>20 here today is that none of those procedures would</p> <p>21 indicate positively or negatively the existence of mail</p> <p>22 voter fraud?</p> <p>23 MS. HUNKER: Objection. Form. Misstates</p> <p>24 testimony.</p> <p>25 A. Procedures themselves did not indicate whether</p>	<p style="text-align: right;">Page 25</p> <p>1 Q. Okay. And then turning to Harris County, which</p> <p>2 is on 216, there's a -- the second sentence here says,</p> <p>3 the BBM process was described to FAD as chaotic. Do you</p> <p>4 know who made that description as chaotic?</p> <p>5 A. It was one of the witnesses or individuals that</p> <p>6 we spoke to during the course of the audit.</p> <p>7 Q. Do you know if that would be someone who worked</p> <p>8 for the Harris County elections office?</p> <p>9 A. Honestly, I can't remember.</p> <p>10 Q. When it says the BBM process, is there any</p> <p>11 specific processes it is referring to?</p> <p>12 A. I think it is the whole process.</p> <p>13 Q. And it says one of the reasons attributed to</p> <p>14 this description was the volume of ballots by mail.</p> <p>15 Were there any other reasons attributed to the</p> <p>16 description of the process as chaotic that aren't</p> <p>17 reflected here?</p> <p>18 MS. HUNKER: Objection. Form.</p> <p>19 A. There aren't any other reasons reflected in the</p> <p>20 report.</p> <p>21 Q. (BY MR. STEWART) Are there any reasons that</p> <p>22 are not reflected in the report but of which the</p> <p>23 Forensic Audit Division is aware?</p> <p>24 A. What is in the report is what the final</p> <p>25 determinations were.</p>

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<p style="text-align: right;">Page 26</p> <p>1 Q. Okay. Was there any evaluation of ABBM 2 processes in Harris County? 3 A. What do you mean when you say evaluation? 4 Q. Sure. Was there any auditing of ABBM processes 5 in Harris County? 6 A. We were not able to discuss the ABBM processes 7 in Harris County because Harris County staff was not 8 made available regarding that matter. 9 Q. Looking at now the last paragraph on 216 but 10 then rolls over into 217. On the first line of 217, it 11 describes questionable carrier envelope in the sentence. 12 Any questionable carrier envelope is removed from a 13 batch and wrapped in a separate sheet for further 14 review. Do you see where I am? 15 A. Yes, sir. 16 Q. What is meant by questionable carrier envelope 17 in that sentence? 18 A. From our understanding out in the field, 19 questionable carrier envelope could be one that maybe 20 didn't have a matching signature or there was something 21 that needed to go on for further review by a ballot 22 board or another TEAM. Harris County had a very 23 specific system that used multiple TEAMS. 24 Q. Is the -- is the description as questionable 25 there meant to indicate potential fraud?</p>	<p style="text-align: right;">Page 28</p> <p>1 there any indication either way of whether a signature 2 itself can be potentially indicative of fraud in the 3 audit report? 4 A. We did not evaluate whether signatures 5 themselves could be potentially indicative of fraud. 6 Q. Okay. All right. Turning to Page 224, there 7 is a section that begins, reason for requesting ballot 8 by mail. I would say that -- is it correct to 9 characterize that in each county in which you had data, 10 the FAD determined that at least some voters who were 11 not eligible were permitted to vote by mail; is that 12 correct? 13 A. So in the data available from the counties, we 14 were able to determine there were some individuals that 15 were not entitled to vote by mail for the reason of age 16 that did appear to have received a ballot. 17 Q. Did the audit division conduct any analysis of 18 the root cause of why that occurred? 19 A. Yes. 20 Q. And what was the audit division's 21 determination? 22 A. There were multiple reasons. 23 Q. And what were they? 24 A. One of the reasons was miscoding by the county. 25 Q. What other reasons?</p>
<p style="text-align: right;">Page 27</p> <p>1 MS. HUNKER: Objection. Form. 2 A. The description of questionable is the word 3 that was used by the witnesses or individuals we were 4 able to speak with. 5 Q. (BY MR. STEWART) So you are reflecting exactly 6 what was said by the individuals interviewed? 7 A. I wouldn't say exactly because obviously things 8 have been paraphrased. But that was the term that was 9 used, and they used in other counties as well, 10 questionable or questioned. 11 Q. Did the Forensic Audit Division have any 12 understanding that the term "questionable" meant a 13 ballot could be fraudulent? 14 A. We didn't have an understanding of that. 15 Questionable usually meant that they couldn't agree, so 16 they asked another set of eyes to look at it. 17 Q. Couldn't agree on what specifically? 18 A. The signatures. 19 Q. The signature. Is a signature itself 20 potentially indicative of fraud? 21 MS. HUNKER: Objection. Form. And how you 22 phrase it is outside the scope of her deposition topics. 23 A. I don't know that I can speak to that. It is 24 not reflected in the report. 25 Q. (BY MR. STEWART) Let me ask it that way. Is</p>	<p style="text-align: right;">Page 29</p> <p>1 A. Another reason would be attaching a record, for 2 example, in a junior, senior situation, to the wrong 3 individual. So it -- the record may have reflected that 4 a ballot by mail was issued to the junior when in fact 5 the senior had requested it, and the senior was the one 6 who wanted to vote by mail. 7 Q. Were there any reasons that would have been 8 based on an action of the voter as opposed to county 9 election officials? 10 A. Yes. 11 Q. What were those? 12 A. Not including information on the application 13 for a ballot by mail that would have indicated they were 14 eligible to vote by mail. 15 Q. Any others? 16 A. Yes. For example -- let's see here. On 17 Page 226, 42 voters had applications that requested to 18 vote by mail due to being 65 or older, but date of birth 19 records indicated the voters were not 65. 20 Q. Any reasons that aren't reflected here on the 21 report? 22 A. No. 23 Q. Turning to Page 229. It appears that with 24 respect to Dallas County you identified an issue 25 described here as bulk applications for ballot by mail,</p>

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<p style="text-align: right;">Page 30</p> <p>1 correct?</p> <p>2 A. Yes.</p> <p>3 Q. Can you describe just briefly for me what that</p> <p>4 issue was?</p> <p>5 A. We identified from their record that they had</p> <p>6 boxes containing applications received in bundle for</p> <p>7 ballots by mail.</p> <p>8 Q. Did you determine whether those applications</p> <p>9 received in bundle for ballots by mail violated state</p> <p>10 law?</p> <p>11 A. We do not make those determinations.</p> <p>12 Q. Okay. Did you refer this matter to the</p> <p>13 Attorney General's office?</p> <p>14 MS. HUNKER: Objection. I am going to</p> <p>15 raise investigative privilege. This is not saying you</p> <p>16 can't answer, but I am going to advise you to only</p> <p>17 answer information that either would be publicly</p> <p>18 available or would not compromise the integrity of the</p> <p>19 investigation as well as any specific information or</p> <p>20 details that would be related to an ongoing prosecution</p> <p>21 or one that was referred.</p> <p>22 MR. STEWART: Just for the clarity of the</p> <p>23 record, would that include information whether it was</p> <p>24 referred at all? Just a yes or no.</p> <p>25 MS. HUNKER: If she is talking about</p>	<p style="text-align: right;">Page 32</p> <p>1 the source of 55 ABBMs submitted with the same</p> <p>2 individual's name as the assistant on all 55</p> <p>3 applications. Did the audit division speak with that</p> <p>4 assistant?</p> <p>5 A. We did not.</p> <p>6 Q. Did you speak with any of the voters?</p> <p>7 A. We did not.</p> <p>8 Q. Did you visit that facility?</p> <p>9 A. We did not.</p> <p>10 Q. Okay. Did you determine whether this -- did</p> <p>11 you attempt to determine, let me say, whether the same</p> <p>12 assistant also attempted to assist the same voters</p> <p>13 with their ballots?</p> <p>14 A. We attempted to locate the carrier envelopes</p> <p>15 associated with the voters with that subset of data.</p> <p>16 Q. Did the Forensic Audit Division find any</p> <p>17 evidence that the ABBMs at issue were not personally</p> <p>18 signed by the voters or at their direction?</p> <p>19 A. What do you mean by evidence?</p> <p>20 Q. Did you conduct any investigation into whether</p> <p>21 the voters, the 55 voters identified, personally signed</p> <p>22 these ABBMs, or they were signed by an assistant at</p> <p>23 their direction?</p> <p>24 A. We just reviewed the records.</p> <p>25 Q. Okay. All right. I want to turn quickly to</p>
<p style="text-align: right;">Page 31</p> <p>1 specifics, yes. If she is talking about like the</p> <p>2 generality of like a subject area --</p> <p>3 MR. STEWART: Okay.</p> <p>4 MS. HUNKER: -- then no. I just want to</p> <p>5 make sure she doesn't get into the nitty-gritty.</p> <p>6 MR. STEWART: Yeah. I just want to</p> <p>7 understand the line.</p> <p>8 A. The Office of the Attorney General had agreed</p> <p>9 to assist with providing additional information so that</p> <p>10 occurrence in Dallas County could be referred to the</p> <p>11 local authorities for investigation and potential</p> <p>12 prosecution.</p> <p>13 Q. (BY MR. STEWART) I see. Do you know whether</p> <p>14 there have been any prosecutions based on this issue</p> <p>15 identified in this report here?</p> <p>16 A. That is not within the scope of my knowledge.</p> <p>17 Q. Okay. Did the Forensic Audit Division speak</p> <p>18 with the -- any individuals involved or described here?</p> <p>19 A. Can you be more specific?</p> <p>20 Q. Sure. So I think it identifies an assistant</p> <p>21 who signed multiple ABBMs as an assistant. Did you</p> <p>22 speak with that individual?</p> <p>23 A. Which page are we on?</p> <p>24 Q. I think we are on 230. One address in</p> <p>25 particular identified as an assisted living facility was</p>	<p style="text-align: right;">Page 33</p> <p>1 the voter register topic, which is back on Page 42.</p> <p>2 MR. STEWART: Where are we on record time?</p> <p>3 MS. HUNKER: You said 42?</p> <p>4 MR. STEWART: 42, yes.</p> <p>5 MS. HUNKER: I have you at five minutes</p> <p>6 remaining.</p> <p>7 MR. STEWART: What's that?</p> <p>8 Q. (BY MR. STEWART) Actually, you know what, I</p> <p>9 asked this question already, so I don't think we need to</p> <p>10 go there. Actually, I will ask briefly about the</p> <p>11 complaint section beginning on 351, but I don't think we</p> <p>12 need to turn there. I just want to ask. Did the</p> <p>13 Forensic Audit Division analyze the substance of any of</p> <p>14 the complaints as to whether they were accurate or not?</p> <p>15 MS. HUNKER: Objection. Form.</p> <p>16 A. We did not evaluate the accuracy of the</p> <p>17 complaints.</p> <p>18 Q. (BY MR. STEWART) Okay. Who reviewed the audit</p> <p>19 report before it was filed?</p> <p>20 A. I reviewed the report.</p> <p>21 Q. Did anyone else?</p> <p>22 A. Yes.</p> <p>23 Q. Who else reviewed it?</p> <p>24 A. Our director.</p> <p>25 Q. Anyone else outside the audit division review</p>

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<p style="text-align: right;">Page 34</p> <p>1 it before it was finalized?</p> <p>2 A. The secretary.</p> <p>3 Q. Anyone outside the Secretary of State's office</p> <p>4 review it before it was finalized?</p> <p>5 A. I believe the governor's office reviewed parts</p> <p>6 of it.</p> <p>7 Q. Did the governor's office recommend any</p> <p>8 changes?</p> <p>9 A. I believe so, yes.</p> <p>10 Q. Were they substantive as to the conclusions?</p> <p>11 A. No.</p> <p>12 Q. What was the nature of those changes?</p> <p>13 A. I do not recall. It's been several months</p> <p>14 since the nature of those changes were.</p> <p>15 Q. Do you know who would know that?</p> <p>16 A. I can probably try to find an answer for you on</p> <p>17 that.</p> <p>18 Q. I would appreciate that. Thank you.</p> <p>19 A. Okay.</p> <p>20 Q. Was there anyone -- leaving aside the governor</p> <p>21 and the governor's office, was there anyone outside the</p> <p>22 Secretary of State's office who requested or directed</p> <p>23 that conclusions be changed before the audit report was</p> <p>24 finalized?</p> <p>25 MS. HUNKER: Objection. Form.</p>	<p style="text-align: right;">Page 36</p> <p>1 MR. STEWART: With that, I have no further</p> <p>2 questions. I don't know if anyone on the Zoom has a</p> <p>3 question that will take one minute.</p> <p>4 All right. Thank you. I will pass the</p> <p>5 witness.</p> <p>6 THE WITNESS: I think one person just</p> <p>7 popped up. But you are muted, sir.</p> <p>8 MS. PERELAS: No questions here.</p> <p>9 MR. GENECCIN: Am I unmuted? Can you hear</p> <p>10 me?</p> <p>11 MR. STEWART: You are, Victor.</p> <p>12 MR. GENECCIN: Good.</p> <p>13 EXAMINATION</p> <p>14 BY MR. GENECCIN:</p> <p>15 Q. Ms. Doyer, my name is Victor Genecin. I am a</p> <p>16 lawyer with the NAACP Legal Defense Fund, and I</p> <p>17 represent the Houston Area Urban League Plaintiff, and I</p> <p>18 just have a few questions for you. I would like to draw</p> <p>19 your attention to Page 6 of Exhibit 23, the section</p> <p>20 labeled key findings.</p> <p>21 MS. HUNKER: So I am going to interject.</p> <p>22 We have reached the seven-hour limit for the 30(b)(6)</p> <p>23 deposition, and so I am going to ask that we go off the</p> <p>24 record and close out the deposition.</p> <p>25 (Off the record.)</p>
<p style="text-align: right;">Page 35</p> <p>1 A. No.</p> <p>2 Q. (BY MR. STEWART) Okay. Were there any</p> <p>3 topics -- topical areas that were included in the audit</p> <p>4 design but are not reflected in the final report?</p> <p>5 A. What do you mean by audit design?</p> <p>6 Q. Sure. So when you were coming up with the</p> <p>7 scope of the audit and the activities that would be</p> <p>8 undertaken to, you know, evaluate the counties'</p> <p>9 processes, were there subject areas that were planned</p> <p>10 for evaluation but ultimately were not included in the</p> <p>11 final report?</p> <p>12 A. Yes.</p> <p>13 Q. What were those?</p> <p>14 A. We wanted to look at, for example, poll worker</p> <p>15 staffing at polling locations.</p> <p>16 Q. Anything related to mail balloting?</p> <p>17 A. Like I said, it was data driving. So if the</p> <p>18 data was there, we were able to evaluate and make a</p> <p>19 report of the conclusions and decisions.</p> <p>20 Q. So there is nothing specific you can recall</p> <p>21 that related to mail balloting that was sort of dropped</p> <p>22 from the scope of the report between the audit design</p> <p>23 and the final report?</p> <p>24 A. No.</p> <p>25 Q. Okay.</p>	<p style="text-align: right;">Page 37</p> <p>1 MS. HUNKER: After consulting with my</p> <p>2 client, we've agreed to give an additional 15 minutes so</p> <p>3 that the OCA greater Plaintiff's counsel can ask his</p> <p>4 line of questions.</p> <p>5 MR. GENECCIN: Thank you very much.</p> <p>6 Q. (BY MR. GENECCIN) Ms. Doyer, I would like to</p> <p>7 draw your attention to Page 6 of the -- of Exhibit 23,</p> <p>8 section called key findings. Are you there?</p> <p>9 A. I am.</p> <p>10 Q. And specifically the next to last sentence of</p> <p>11 that section reads, many of the irregularities observed</p> <p>12 in the audit are less likely to occur in future</p> <p>13 elections due to legislative changes made following the</p> <p>14 2020 general election including Senate Bill 1. Did I</p> <p>15 read that section correctly?</p> <p>16 A. Yes, sir.</p> <p>17 Q. What is the basis in the audit for the sentence</p> <p>18 that I just read?</p> <p>19 A. There were many improvements that came</p> <p>20 legislatively that can preclude the volume in some of</p> <p>21 what we saw in the records that we reviewed in those</p> <p>22 four counties.</p> <p>23 Q. What are those changes?</p> <p>24 A. The mail ballot tracker, for example.</p> <p>25 Q. Any others?</p>



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<p>1 A. Yes. Senate Bill 1 added Section 127, I want</p> <p>2 to say, 009 that requires counties to submit a</p> <p>3 tabulation audit log to the Secretary of State's office.</p> <p>4 Q. Anything else?</p> <p>5 A. The addition of the requirement for counties to</p> <p>6 put zero tapes at the polling location.</p> <p>7 Q. Anything else?</p> <p>8 A. The identifiers on the carrier envelopes would</p> <p>9 preclude issues like we saw in Dallas where the --</p> <p>10 Dallas and Collin where a voter had been attached to a</p> <p>11 ballot by mail that had the identifiers been included,</p> <p>12 then perhaps the voter record would have been more</p> <p>13 accurate and the correct voter would have been reflected</p> <p>14 as having voted by mail.</p> <p>15 Q. Anything else?</p> <p>16 A. Yeah, the reconciliation forms.</p> <p>17 Q. What are those?</p> <p>18 A. There are two forms that must be filled out.</p> <p>19 One will include unofficial results and one would</p> <p>20 include official records. And -- but it gives a</p> <p>21 county-wide look at reconciling ballots versus voters so</p> <p>22 it can identify any issues at a high level early on that</p> <p>23 can be addressed.</p> <p>24 Q. Anything else?</p> <p>25 A. It is not fully implemented yet, but the</p>	<p>1 voter appeared to have voted and had vote history. So</p> <p>2 hopefully the corrective action process would eliminate</p> <p>3 some of those irregularities.</p> <p>4 Q. Are there any other irregularities that would</p> <p>5 be alleviated by Senate Bill 1?</p> <p>6 A. There may be. That's -- those are the ones I</p> <p>7 can recall off the top of my head.</p> <p>8 _____</p> <p>9 Q. Why don't we leave a blank in the transcript,</p> <p>10 and if you are able to think of any others when you</p> <p>11 review the transcript and sign it, you will add them in.</p> <p>12 All right?</p> <p>13 A. Yes, sir.</p> <p>14 Q. Thanks very much.</p> <p>15 MR. GENECHIN: I will pass the witness.</p> <p>16 THE WITNESS: Thank you.</p> <p>17 MS. HUNKER: We can close out then the</p> <p>18 deposition and dismiss the witness, and we ask for read</p> <p>19 and sign.</p> <p>20 (Proceedings ended at 4:03 p.m.)</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p>1 paper-based audit trail that's going to be required by</p> <p>2 virtue of SB1 that will significantly assist with any</p> <p>3 issues that we saw, for example, in Harris County with</p> <p>4 the DREs.</p> <p>5 Q. What were those issues?</p> <p>6 A. One of the issues was the lack of the paper</p> <p>7 ballot trail, which, because there was no way to access</p> <p>8 the content of the mobile ballot boxes, we were unable</p> <p>9 to verify the contents of those mobile ballot boxes.</p> <p>10 The equipment had been destroyed. There was no way to</p> <p>11 access them. And there was a significant chain of</p> <p>12 custody issue that affected, you know, the whole</p> <p>13 process. And I think there were at least 1,084 ballots</p> <p>14 that lacked proper chain of custody.</p> <p>15 Q. Are there any other irregularities you observed</p> <p>16 in the audit that are less likely to occur at future</p> <p>17 elections because of legislative changes made following</p> <p>18 the 2020 general election including Senate Bill 1?</p> <p>19 A. The corrective action process will -- should</p> <p>20 help with mail ballots. That didn't exist prior to</p> <p>21 Senate Bill 1. Harris County had a sort of informal</p> <p>22 review process that they engaged in, which was helpful</p> <p>23 in assisting the voters. Any irregularity we observed,</p> <p>24 however, was that there were several instances where</p> <p>25 Harris County marked a ballot as unresolved, yet that</p>	<p>1 CHANGES AND SIGNATURE</p> <p>2 PAGE/LINE CHANGE REASON</p> <p>3 _____</p> <p>4 _____</p> <p>5 _____</p> <p>6 _____</p> <p>7 _____</p> <p>8 _____</p> <p>9 _____</p> <p>10 _____</p> <p>11 _____</p> <p>12 _____</p> <p>13 _____</p> <p>14 _____</p> <p>15 _____</p> <p>16 _____</p> <p>17 _____</p> <p>18 _____</p> <p>19 _____</p> <p>20 _____</p> <p>21 _____</p> <p>22 _____</p> <p>23 _____</p> <p>24 _____</p> <p>25 _____</p>

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<p>1 I, JACQUELINE DOYER, have read the</p> <p>2 foregoing deposition and hereby affix my signature that</p> <p>3 same is true and correct, except as noted above.</p> <p>4 _____</p> <p>5 JACQUELINE DOYER</p> <p>6</p> <p>7 THE STATE OF TEXAS)</p> <p>8 COUNTY OF _____)</p> <p>9 Before me, _____, on</p> <p>10 this day personally appeared JACQUELINE DOYER, known to</p> <p>11 me (or proved to me under oath or through</p> <p>12 _____) (description of identity card</p> <p>13 or other document) to be the person whose name is</p> <p>14 subscribed to the foregoing instrument and acknowledged</p> <p>15 to me that they executed the same for the purposes and</p> <p>16 consideration therein expressed.</p> <p>17</p> <p>18 Given under my hand and seal of office</p> <p>19 this _____ day of _____, 2023.</p> <p>20</p> <p>21 _____</p> <p>22 NOTARY PUBLIC IN AND FOR</p> <p>23 THE STATE OF TEXAS</p> <p>24 MY COMMISSION EXPIRES:</p> <p>25 _____</p>	<p>1 Subscribed and sworn to on this _____ day</p> <p>2 of _____, 2023.</p> <p>3</p> <p>4</p> <p>5  </p> <p>6 JAZZMEN C. CANALES, Texas CSR 9344</p> <p>7 Expiration Date: 04/30/2025</p> <p>8 MAGNA LEGAL SERVICES</p> <p>9 Firm Registration No. 633</p> <p>10 1635 Market Street</p> <p>11 Suite 800</p> <p>12 Philadelphia, Pennsylvania 19103</p> <p>13 Telephone: 866-624-6621</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p>1 IN THE UNITED STATES DISTRICT COURT</p> <p>2 FOR THE WESTERN DISTRICT OF TEXAS</p> <p>3 SAN ANTONIO DIVISION</p> <p>4 LA UNION DEL PUEBLO)</p> <p>5 ENTERO, ET AL.,)</p> <p>6 Plaintiffs,)</p> <p>7 VS.) CIVIL ACTION NO.</p> <p>8) 5:21-CV-844 (XR)</p> <p>9 STATE OF TEXAS, ET AL.,)</p> <p>10 Defendants.)</p> <p>11</p> <p>12 REPORTER'S CERTIFICATION</p> <p>13 ORAL DEPOSITION OF</p> <p>14 JACQUELINE DOYER</p> <p>15 MARCH 29, 2023</p> <p>16</p> <p>17 I, JAZZMEN CANALES, Certified Shorthand</p> <p>18 Reporter in and for the State of Texas, hereby certify</p> <p>19 to the following:</p> <p>20 That the witness, Jacqueline Doyer, was</p> <p>21 duly sworn by the officer and that the transcript of the</p> <p>22 oral deposition is a true record of the testimony given</p> <p>23 by the witness;</p> <p>24</p> <p>25 I further certify that pursuant to FRCP</p> <p>Rule 30(f)(1) that the signature of the deponent</p> <p>_____ was requested by the deponent or a party</p> <p>before the completion of the deposition and returned</p> <p>within 30 days from date of receipt of the transcript.</p> <p>If returned, the attached Changes and Signature Page</p> <p>contains changes and the reasons therefor;</p> <p>_____ was not requested by the deponent or a party</p> <p>before the completion of the deposition.</p> <p>I further certify that I am neither</p> <p>attorney nor counsel for, related to, nor employed by</p> <p>any of the parties to the action in which this testimony</p> <p>was taken.</p> <p>Further, I am not a relative or employee</p> <p>of any attorney of record in this cause, nor do I have a</p> <p>financial interest in the action.</p>	

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IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

LA UNION DEL PUEBLO ENTERO, et al.,
Plaintiffs,

v.

GREGORY W. ABBOTT, et al.,
Defendants.

§
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Case No. 5:21-cv-844-XR

STATE DEFENDANTS' BRIEF IN RESPONSE TO
THE UNITED STATES' MOTION FOR SUMMARY JUDGMENT

APPENDIX K

Subject to Protective Order

EXPERT WITNESS REPORT

La Union del Pueblo Entero v. Abbott, No. 5:21-cv-844 (W.D. Tex.) (lead case)

Submitted by

Mark Hoekstra, PhD

Date of Report

March 3, 2023

I. Introduction

1. I have been engaged to respond to the second supplemental report dated February 10, 2023, that was written by Professor Eitan Hersh in the consolidated case *La Union del Pueblo Entero v. Abbott*, No. 5:21-cv-844 (W.D. Tex.). My analysis is based on my knowledge and experience as an active research economist who is well versed in the frontier empirical methods used in causal analyses.

II. Qualifications and Compensation

2. I am the Rex B. Grey Professor of Economics at Texas A&M University in College Station, Texas, where I have been on the faculty since 2011. Prior to arriving at Texas A&M, I was an assistant professor of economics at the University of Pittsburgh. I received my PhD in Economics from the University of Florida in 2006. I have published more than 20 papers in peer-reviewed journals in economics, including the American Economic Association's (AEA) top journal of *American Economic Review* as well as the top AEA journals relevant to my field (*American Economic Journal: Applied Economics* and *American Economic Journal: Economic Policy*) and top field journals (*Journal of Labor Economics*; *Journal of Public Economics*; *Journal of Human Resources*). These studies have used a wide variety of administrative datasets, including data on voting. I serve as a reviewer for approximately 20 paper submissions per year, including for top economics journals. I serve as an Associate Editor at the *Journal of Labor Economics* (since 2018) and at the *Journal of Human Resources* (since 2015), which are the top two field journals in labor economics.

3. The common theme throughout both my research and my teaching is careful attention to the assumptions underlying various research designs used to assess the causal impact of policies. Some of my research is used as examples in the textbook *Causal Inference: The Mixtape* by Scott Cunningham, which is a leading graduate-level book on empirical methods used in economics. I teach a PhD-level field course in labor economics, the focus of which is on understanding and assessing the

various research methodologies used by economists and other social scientists. These include the methods used to test for racial and gender bias in different settings. I also teach part of the core 1st-year PhD sequence in econometrics, in which I focus on how to assess causality in non-experimental contexts. I am perhaps best known among the PhD students as someone who offers advice on research projects, including whether the proposed method is sufficient to answer the question at hand. I recently won department-level awards for both the quality of graduate teaching and the quality of feedback given to students. During my time at Texas A&M, I have chaired more than 10 dissertation committees, and many of my students have gone on to careers at R-1 research universities. I have served on the committees of countless more PhD students.

4. I also hold an appointment as a Research Fellow at the National Bureau of Economic Research based in Cambridge, Massachusetts, and as a Research Fellow at the Institute for Labor Economics (IZA) based in Bonn, Germany. In 2012 I received the IZA Young Labor Economist Award.

5. I am being compensated for my time at the rate of \$600/hour. I have not previously testified as an expert witness.

III. Assessment of Professor Hersh's second supplemental report – Overview

6. What does the November 2022 election—the first federal election since the passage of SB1—tell us about the actual impact of SB1 on mail-in voting? To what extent did the new identification requirements impose a sufficiently large burden on voters as to deter voting? A useful upper-bound for the right answer to that question is buried deep inside Professor Hersh's Second Supplemental Report. In it, he calculates that among the more than 8.1 million votes cast, there were only 6,355 mail-in ballots that were rejected for a reason relating to identification, and where the voter did not cure the ballot or vote in person. That is well less than one out of every one thousand votes

statewide. Importantly, even this figure of 6,355 votes overstates the extent to which election officials failed to count mail-in votes that had been legally and properly cast, for two reasons:

- A. Some, and potentially all, of these ballots may have been illegitimate. There is nothing in Professor Hersh's report, or in the underlying data, to indicate whether or not those rejected mail-in votes were cast legally. To the extent that some or all of those votes were illegitimate, Professor Hersh consistently misinterprets illegitimate votes as evidence that SB1 improperly caused a reduction in legitimate voting.
- B. Some, and potentially all, of these 6,355 ballots could have been rejected because voters failed to write down *any* identification number on the ballot. Professor Hersh cannot distinguish between ballots that were cast without writing down any identification number at all, from those that were cast, to quote his first report, "in perfect accordance with the state's instructions under SB 1". In fact, there is nothing in Professor Hersh's report, save for one flawed analysis that I discuss below, that suggests the database issues he emphasizes are responsible for *any* of these 6,355 mail-in vote rejections under SB1.

7. As a result of these factors, the proper interpretation of Professor Hersh's analysis is that there were *at most* 6,355 fewer legitimate votes cast and counted as a result of SB1, out of more than 8.1 million total votes. For the reasons described above, the true number of legally cast mail-in votes that went uncounted—and especially the true number of legally and properly cast votes that went uncounted—is almost certainly smaller than that, and possibly zero.

8. Moreover, the identification requirements of SB1 are still relatively new, and as with any new process, there is a learning curve for both election administrators and voters. That fact, combined with the likelihood that at least some of the rejected votes counted by Professor Hersh were rejected due to voter error, suggests that the effect of SB1 going forward will likely be smaller than it was for the November 2022 election. And as described above, the impact on that election was less than, and possibly much less than, 0.078 percent of all votes cast and counted.

9. As alluded to above, there is only one analysis in Professor Hersh's Second Supplemental report that claims to provide any evidence that ballot rejections were "likely to be related to SB 1 requirements". I demonstrate below that this analysis is based on three faulty assumptions. The consequence of those assumptions is that Professor Hersh would improperly conclude that the

higher rejection rates among those he classifies as “at risk” are caused by the database issues. Instead, the higher rejection rates could be due to differences in failing to provide a signature, or in failing to include a statement of residence. Alternatively, some or all of the differential could be due to “at risk” voters viewing in-person voting as a close-if-not-perfect substitute, consistent with empirical evidence I documented in my first report. Third, the differential could be due to other differences between the two groups of people, who are likely different in many ways, including those not observed in the data.

10. Finally, in his Second Supplemental report, Professor Hersh also replicates the analysis of the state databases that he performed in his previous reports. In doing so, he addresses the following question: How many Texans would need to, in Professor Hersh’s words, “be lucky”, in order to cast a mail ballot without their application or ballot being rejected? As I documented in my response to his initial report, there are numerous flawed assumptions in that analysis. Put simply, that analysis assumed that everything that can go wrong with absentee voting will go wrong, ignored important aspects of the voting process, and did so for a population of mail-in voters that is vastly larger than anything observed in Texas history, including during the worst pandemic in 100 years.

11. Strikingly, Professor Hersh’s own empirical analyses in his Second Supplemental Report directly contradict most, if not all, of the assumptions and conclusions he made in his analyses of the voter databases.

- A. For example, his simulation of voting using the voter databases ignored the ballot curing process, and assumed that would-be absentee voters are never willing to vote in person instead. In contrast, Professor Hersh’s analysis of actual voting in the 2022 election indicated that a large fraction of initially-rejected mail-in ballots were in fact cured, and that nearly half of mail-in ballots rejected for identification reasons are associated with a registrant whose record also shows they subsequently chose to, and were able to, vote successfully either by mail or in person.
- B. In assuming that everything that can go wrong will go wrong, Professor Hersh’s simulation of voter databases also concluded that 15 percent of absentee ballots would be rejected. His analysis of actual voting in the 2022 general election shows that only 4.1 percent of mail-in ballots were initially rejected.

12. The net result of these, and other, unfounded assumptions is that Professor Hersh's analyses of voter databases, both in his second supplemental report and earlier reports, make the dire warning that as many as 2.7 million voters could be impacted by SB1's identification restrictions. His analysis of actual voting directly contradicts this and shows that at most—*at most*—6,355 fewer votes were cast and counted than would have been otherwise. Moreover, some or all of these may have been illegitimate, or may have been caused by a voter's failure to write down any identification number, rather than being caused by the database issues emphasized by Professor Hersh.

IV. The maximum number of votes not counted in the November 2022 federal election due to SB1's identification requirements

13. To what extent did SB1's identification requirements result in fewer legitimate votes being cast and counted during the 2022 federal election? This is an important question for understanding the likely burden that SB1 places on would-be absentee voters. Were SB1's identification rules so stringent, and the voter databases so insufficient, as to burden would-be legitimate absentee voters so much that they were unable to cast votes? If the answer were yes, this would indeed be problematic. But the data do not support such a conclusion.

14. It turns out that Professor Hersh's analysis of the 2022 election data contains a useful estimate of the maximum number of legally and properly cast votes that election officials failed to count, though it is buried deep in Professor Hersh's report. Despite the dire warnings that Professor Hersh had issued and continues to issue regarding the likely impact of the database issue on absentee voting—namely, that 2.7 million registered voters in Texas could be impacted—Professor Hersh's own analysis indicates there were only 6,355 absentee votes that were rejected, where the voter also did not subsequently cast a ballot successfully either by mail or in person. This is shown in paragraph 21 of Professor Hersh's Second Supplemental report. Professor Hersh states there are 11,430 records indicating votes that were rejected due to reasons relating to identification verification. However,

nearly half of the registered voters associated with these rejections—44.6 percent—were subsequently able to vote successfully either in person or by curing their ballot. That suggests that out of the more than 8.1 million votes cast in Texas during the 2022 federal election, only 6,355 mail-in votes were rejected due to an identification-related reason, and associated with names of individuals who were not subsequently observed to vote successfully either by mail or in person.¹

15. Put another way, when put into practice, the concerns Professor Hersh identified reduced the total number of votes cast and counted in the general election by, at most, 0.078 percent.

16. Moreover, even this figure of 6,355 votes overstates the true extent to which SB1's identification requirements reduced the total number of legitimate votes cast by voters who, in Professor Hersh's words, voted "in perfect accordance with the state's instructions under SB 1", for two reasons:

- A. Some, and potentially all, of these ballots may have been illegitimate. Put simply, there is nothing in Professor Hersh's report, or in the underlying data, to indicate whether or not those rejected mail-in votes were legitimate ballots cast by the person who was registered to vote under that name. To be clear, I do not know whether these 6,355 votes were cast legally. But neither can Professor Hersh know, based on the data available to him. What I know is that it is possible for some or all of those votes to have been illegitimate, in which case Professor Hersh consistently misinterprets illegitimate votes as evidence that SB1 improperly caused a reduction in legitimate voting.

This error leads to perverse consequences for the evaluation of SB1, given that the Texas Legislature's stated purpose for passing the law was to reduce the likelihood of illegally cast ballots. Even if the only effect of the identification restrictions imposed by SB1 is to prevent fraudulent votes from being counted, Professor Hersh misinterprets those ballot rejections as evidence that SB1 is improperly reducing legitimate voting, rather than accomplishing its stated aim.

- B. Some, and potentially all, of these 6,355 ballots could have been rejected because voters failed to write down *any* identification number on the ballot. Put simply, Professor Hersh cannot distinguish between ballots that were cast without writing down any identification number at all, and those that were rejected because the number written down did not match the number in the state database due to the issues he emphasizes. That is because all of the codes that he uses to infer the rejection was due to identification verification, which are listed in footnote 7 of his second supplemental report, indicate things like "Incorrect or Missing SSN/TDL #". None of them distinguish between not writing down

¹ 11,430*(1-0.446) = 6,355.

one's ID number at all and writing down a number that does not match the state database. That information is simply not recorded in the data.

17. In fact, there is nothing in Professor Hersh's report, save for one flawed analysis that I discuss in the following section, that suggests the database issues he emphasizes are responsible for *any* mail-in ballot rejections, including for these 6,355 cases.

18. In short, the problem is that Professor Hersh (mis)classifies any ballot rejection as due to SB1, even if that is a rejection due to voter error, or if the vote itself is illegitimate. This is particularly misleading given that Professor Hersh uses the same language in attributing blame for the ballot rejections in the actual data as he does when he describes potential ballot rejections based on his simulation using voter databases. For example, in his second supplemental report, Professor Hersh asserts that 2.7 million registered voters in Texas could run into problems when voting absentee due to the "SB 1 identification verification rule", or due to "SB 1's verification procedures". His empirical analysis of actual voting echoes this language in that it makes no fewer than six references to ballots being rejected on account of "SB 1 identification rules", "SB 1 identification issues", or "SB 1 grounds". Yet the empirical analysis cannot distinguish between rejections due to state database issues from rejections due to voter error, or even due to fraudulent voting.

19. Professor Hersh's inability to distinguish voters' failures to follow instructions from rejections caused by the database issue he emphasizes also has important implications going forward. To the extent that some or all of the rejections he documents are due to voters failing to write down an identification number, we should expect to see further declines in mail-in ballot rejections in future elections. That is because as with most new rules, there is a learning curve for both election administrators and voters. This was evident in the fact that the mail-in ballot rejection rate fell from 12.4 percent to 2.7 percent from the 2022 primary election to the 2022 general election.² It was also

² [Rejections of Texans' mail ballots decline markedly from big surge in March primary \(dallasnews.com\)](https://www.dallasnews.com/news/2022/06/24/rejections-of-texas-mail-ballots-decline-markedly-from-big-surge-in-march-primary/)

explicitly acknowledged by the Brazos County Elections Administrator, who indicated that many of the November 2022 mail-in ballot rejections for the November 2022 election she had seen at the time of the interview were from voters who had not yet learned, despite election administrators' best efforts, to follow the new rules.³

V. The only evidence offered by Professor Hersh suggesting ballot rejections are due to the database issue is deeply flawed

20. Professor Hersh's main argument, throughout all of his reports, is that imperfections in the state databases used to verify a mail-in voter's identity will cause officials to reject legitimate votes, even if individuals fill out the ballot properly. The problem, which is both unacknowledged and unaddressed by Professor Hersh, is that Professor Hersh cannot discern in the data whether a mail-in ballot was rejected because the voter did not write down an identification number (or wrote the identification number incorrectly), or if the number was correctly written down by the voter but did not match the number in the state database. Thus, as described in the previous section, it is not clear that *any* of the rejected mail-in ballots that Professor Hersh identifies in his data are due to the database issue he emphasizes so much.

21. Professor Hersh only provides one analysis claiming to provide evidence that it is this database issue, rather than voter error or even illegitimate voting, that causes the mail-in vote rejections. Unfortunately, this analysis is deeply flawed. In paragraph 27, Professor Hersh compares the mail-in ballot rejection rates of those 2.7 million Texans who he identifies as "at-risk" (mostly because they are associated with two ID numbers in the system), versus the rest of registered voters.

³ Of the voters who had voted in the primary, Ms. Hancock said "This is a new process for them. Those who voted in the primary and the runoff know what they need to do, as opposed to someone who is only voting in the November election." See <https://www.texastribune.org/2022/10/20/voting-texas-ballot-rejections/>.

While this may seem intuitively sensible, there are three critical flaws in Professor Hersh's execution of this analysis, any one of which is sufficient to be fatal.

- A. The first problem is that in comparing the rate at which the two groups never cast a successful ballot, Professor Hersh inexplicably counts all of the mail-in ballots that were not counted, even though many, if not most, of these ballots were not counted for reasons that have nothing to do with the identification requirements of SB1. For example, Professor Hersh counts those whose ballots were rejected for reasons that have nothing to do with the identification requirements of SB1, as well as those whose ballots were returned late, or even not returned at all. As a result, the resulting analysis provides no evidence that the difference in the mail-in ballot success rates of the two groups is due to SB1, rather than other unrelated differences in behavior across the two groups.
- B. The second problem is that, as in his analyses of voter databases, Professor Hersh ignores the issue of substitution. As I noted in my first report, the best research on this topic, published in a top journal by Stanford and UCLA researchers, indicates that Texas absentee voters view absentee and in-person voting as close-if-not-perfect substitutes. In this analysis, Professor Hersh does not account for this, at all. Thus, it is possible the entire differential documented by Professor Hersh is driven by the fact that the voters deemed to be "at-risk" by Professor Hersh subsequently vote in person at higher rates than those deemed "not at-risk". Indeed, this would be unsurprising, if Professor Hersh is correct that these individuals are somewhat more likely to encounter a problem when attempting to vote absentee. Yet Professor Hersh's analysis ignores this issue.
- C. The third problem is that Professor Hersh ignores the fact that correlation is not causation. That is, anytime there are two groups of individuals that differ in one dimension—in this case, whether they qualify as "at risk" in Professor Hersh's analysis—they can differ in other ways as well, such as the likelihood of voting by mail, for reasons that have nothing to do with the first factor.⁴

22. To be clear, Professor Hersh's analysis on this issue would conclude that the difference in mail-in voting rejection rates "is likely to be related to SB 1 requirements" *even if* the entire differential were due to the one group of people being more likely to forget to write down a number or sign their name on the ballot, or even remembering to return the ballot at all, none of which have anything to do with the database issue he emphasizes. Similarly, Professor Hersh's analysis would conclude the difference "is likely to be related to SB 1 requirements" *even if* the entire differential were

⁴ A trivial example is that while people who live in rural areas may vote for Republicans more often than people who live in urban areas, that does not mean that the locational difference is causing the difference in voting preferences. Rather, it is possible that these individuals differ in other ways, such as views on the appropriate size of government, or any number of other factors, that could influence both locational choice and voting preferences.

due to “at-risk” voters choosing the close-if-not-perfect substitute of voting in person more often than not-at-risk voters. Finally, Professor Hersh’s analysis would conclude the difference “is likely to be related to SB 1 requirements” *even if* the difference in successful mail voting is caused by other differences between “at-risk” and “not at-risk” groups, which likely differ in many ways, including those unobserved in the data.

VI. Professor Hersh’s assumptions and conclusions from his analysis of state databases are directly contradicted by his own analysis of the data from the 2022 federal election

23. In his second supplemental report, Professor Hersh replicates an analysis previously performed in earlier reports aimed at assessing the fraction and number of registered voters in Texas who could encounter a problem when attempting to vote absentee under SB1. He did this by attempting to simulate what would hypothetically happen if every registered voter in Texas were to vote absentee, under a range of assumptions about voting laid out in several thousand lines of code.

24. In my response, I documented many of the implausible assumptions of that analysis. Put simply, Professor Hersh assumed that everything that could go wrong in absentee voting would go wrong, and did so for a population of absentee voters that is vastly larger than anything Texas has ever observed in history. In addition, the assumptions he used ignored important aspects of actual absentee voting in Texas, such as the fact that the Texas Secretary of State recommends that voters write down two numbers, which would solve nearly all of the database issues emphasized by Professor Hersh; the ballot curing process; and the fact that existing empirical evidence indicates in-person voting is a close-if-not-perfect substitute for absentee voting.

25. It turns out that Professor Hersh’s own empirical analyses in his Second Supplemental Report directly contradict the conclusions from his analyses of the voter databases, and the assumptions used to generate those conclusions. These contradictions include the following:

- A. Professor Hersh's simulations assumed that zero mail-in voters who encountered problems would cure their ballots. That assumption is refuted by his own analysis of actual voting in the 2022 federal election. In Paragraph 19, he points out that of the 13,638 mail-in ballot rejections, "about 40%" have a status code that indicates the ballot was accepted, which Professor Hersh attributes to the ballot being initially rejected but eventually cured and accepted.
- B. Similarly, Professor Hersh's simulations of voting assume that zero absentee voters who encounter difficulties will vote in person. In contrast, while he does not break down in-person voting separately from the curing of ballots, his analysis of actual voting in the 2022 federal election indicates this likely happened. In Paragraph 21, he states that of the 11,430 records indicating voters who were rejected due to an identification-related reason, nearly half of them (44.4 percent) are associated with a registrant whose record also shows they were able to vote successfully either by mail or in person. Importantly, as noted earlier, neither Professor Hersh nor I can rule out the possibility that the voters who voted successfully were the *only* ones among these 11,430 rejections who were attempting to cast legitimate votes.
- C. As I demonstrated in my first report, Professor Hersh's analysis of voter records assumes that every Texan who has more than one DPS identification number writes down the number they did *not* register with. Put differently, faced with deciding which of two DPS numbers to put down on the ballot, Professor Hersh assumes that not only will every Texan fail to remember the number they registered with, but they will also guess wrong, every time. Similarly, Professor Hersh assumes that every absentee voter will write down only one number, even though the Texas Secretary of State, and at least some local election officials, strongly recommend writing down both a DPS number and the last four digits of the Social Security Number.⁵

26. Professor Hersh's analysis of actual voting in 2022 also directly contradicts these assumptions. While Professor Hersh's simulations indicated that up to 16 percent of absentee voters would encounter problems, his analysis of actual voting in Paragraph 19 of his report indicates that the initial rejection rate was one-fourth of that.

27. What is the net effect of all of the assumptions of Professor Hersh's analysis of state voter databases? Professor Hersh would have you believe his dire warnings, both in the second supplemental report and earlier reports, that 2.6 to 2.7 million registered voters in Texas could be disenfranchised due to the identification requirements imposed by SB1. And indeed, in a hypothetical world that operated according to the implausible assumptions he lays out, that may well be true. But

⁵ For example, see <https://www.sos.state.tx.us/about/newsreleases/2022/101222.shtml>.

in the real world of voting in Texas, Professor Hersh's own analysis indicates that out of more than 8.1 million votes cast, there are at most 6,355 ballots that went uncounted. That is 0.078 percent of all votes cast, or 0.036 percent of all registered voters in Texas.⁶ In short, Professor Hersh's simulation estimate of failed mail-in voting was 417 times as large as his own empirical estimate based on actual voting.⁷ And as noted earlier, this much lower number is itself inflated, given some or all of these rejections could have been fraudulent votes, or even if not, could be due to voters failing to write down any identification number.

VII. Conclusion

28. In the conclusion of my first report in response to Professor Hersh, I stated that the burden imposed by SB1 on the handful of voters impacted by SB1 is likely minimal, and quite possibly zero. Professor Hersh's own empirical analyses in his second supplemental report provides direct evidence in support of that opinion. In addition, his empirical analyses of the 2022 election directly contradict both the assumptions used in his analyses of voter databases, and his conclusion that 2.7 million registered Texan voters could have their mail-in ballots rejected even if they fill out the ballot correctly. In particular, Professor Hersh's empirical analysis demonstrates that in the 2022 federal election, there were *at most* 6,355 mail-in votes that were rejected for identification reasons and were not cured or cast in person. By comparison, over 8.1 million votes were cast in that election. Moreover, given the clear learning curve associated with new regulations such as those imposed by SB1, as demonstrated by the decline in rejections from the primary to the general election of 2022, as

⁶ Per the Secretary of State Website, there were 8,102,908 votes cast and counted in the 2022 federal election. Thus, as a fraction of total votes cast and counted, 0.078 percent ($6,355/8,102,908$) of all votes cast were potentially "lost" due to SB1, or 0.036 percent of all registered voters in Texas ($6,355/17,672,143$). See <https://www.sos.state.tx.us/elections/historical/70-92.shtml>.

⁷ Professor Hersh's estimate of the potential mail-in ballot rejections was 15 to 16 percent of all registered voters; $15/0.036 = 417$.

well as factors laid out in my previous report, I believe it is likely that if anything, the rate of rejections will continue to decline going forward.

29. Importantly, even that figure of 6,355 exceeds the actual number of legally and properly cast votes that were not counted. This is because some, and potentially all, of those rejections could have occurred because the vote was illegally cast. Similarly, some, and potentially all, of those ballots could have been rejected because voters did not write down any identification number (or mistakenly wrote down an incorrect number). Professor Hersh cannot distinguish between either of those interpretations and his own hypothesis that the rejections were all due to the database issue deficiencies he asserts. Put differently, Professor Hersh's own analysis is consistent with a belief that exactly zero legitimate votes were lost in the 2022 federal election due to SB1's identification requirements. Similarly, even if one were to assume away the possibility of fraudulent voting, Professor Hersh's analysis is consistent with the belief that exactly zero votes failed to be cast and counted because of state voter database issues. As a result, I again conclude that the impact of SB1 on mail-in voting is almost certainly minimal, and very possibly zero.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'M. Hoekstra', with a stylized flourish at the end.

Mark Hoekstra, PhD

CURRICULUM VITAE

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Academic Appointments

2018 – Present	Professor of Economics
2015 – Present	Private Enterprise Research Center Rex B. Grey Professor of Economics, Texas A&M University
2011 – 2018	Associate Professor of Economics, Texas A&M University
2006 – 2011	Assistant Professor of Economics, University of Pittsburgh

Research Appointments

2015 – Present	Research Associate, National Bureau of Economic Research
2013 – Present	Research Fellow, IZA
2011 – 2015	Faculty Research Fellow, National Bureau of Economic Research

Editorial Positions

2018 – Present	Associate Editor, <i>Journal of Labor Economics</i>
2015 – Present	Associate Editor, <i>Journal of Human Resources</i>

Education

Ph.D. Economics, University of Florida, August 2006
Dissertation Advisor: David Figlio

B.A. Economics, Hope College (*summa cum laude*), June 2001

Research Interests

Applied Microeconomics, including Labor Economics, Law and Economics, and the Economics of Education

Publications

“The Effect of Open-Air Waste Burning on Infant Health: Evidence from Government Failure in Lebanon” (with Pierre Mouganie and Ruba Ajeeb), forthcoming in *Journal of Human Resources*

“The Effect of School and Neighborhood Peers on Achievement, Misbehavior, and Adult Crime” (with Stephen B. Billings), forthcoming in *Journal of Labor Economics*

“Does Race Matter for Police Use of Force? Evidence from 911 Calls” (with CarlyWill Sloan), *American Economic Review* 2022, 112(3): 827-860.

“The Effect of Own-Gender Jurors on Conviction Rates” (with Brittany Street), *Journal of Law and Economics* 2021, 64(3): 513-537.

“(Almost) No One Votes Without ID, Even When They Can” (with Vijetha Koppa), *Economics Letters* 2021, 205: 1-3.

“The Impact of College Diversity on Behavior Toward Minorities” (with Scott E. Carrell and James West), *American Economic Journal: Economic Policy* 2019, 11(4): 159-182.

“The Long-Run Effects of Disruptive Peers” (with Elira Kuka and Scott E. Carrell), *American Economic Review* 2018, 108(11): 3377-3415.

“Peer Quality and the Academic Benefits to Attending Better Schools (with Pierre Mouganie and Yaojing Wang), *Journal of Labor Economics* 2018, 36(4): 841-884.

“Cash for Corollas: When Stimulus Reduces Spending” (with Steven L. Puller and Jeremy West), *American Economic Journal: Applied Economics* 2017, 9(3): 1 – 35.

“Illegal Immigration, State Law, and Deterrence” (with Sandra Orozco-Aleman), *American Economic Journal: Economic Policy* 2017, 9(2): 228-252.

“Vehicle Miles (Not) Traveled: Why Fuel Economy Requirements Don’t Increase Household Driving” (with Jeremy West, Jonathan Meer, and Steven L. Puller), *Journal of Public Economics* 2017, 145: 65-81.

“Are School Counselors an Effective Education Input?” (with Scott E. Carrell), *Economics Letters* 2014, 125(1): 66-69.

“Bank Privatization, Finance, and Growth” (with Daniel Berkowitz and Koen Schoors), *Journal of Development Economics* 2014, 110: 93-106.

“Does Strengthening Self-Defense Law Deter Crime or Escalate Violence? Evidence from Expansions to Castle Doctrine (with Cheng Cheng) *Journal of Human Resources* 2013, 48(3): 821-854.

“Family Business or Social Problem? The Cost of Unreported Domestic Violence” (with Scott E. Carrell) *Journal of Policy Analysis & Management* 2012, 31(4): 861-875.

“Is Poor Fitness Contagious? Evidence from Randomly Assigned Friends” (with Scott E. Carrell and James West) *Journal of Public Economics* 2011, 95(7-8): 657-663.

“The Ticket to Easy Street? The Financial Consequences of Winning the Lottery” (with Scott Hankins and Paige Marta Skiba) *Review of Economics and Statistics* 2011, 93(3): 961-969.

“Does Drinking Impair College Performance? Evidence from a Regression Discontinuity Approach” (with Scott E. Carrell and James West) *Journal of Public Economics* 2011, 95 (1-2): 54-62.

“Does High School Quality Matter? Evidence from Admissions Data” (with Daniel Berkowitz) *Economics of Education Review* 2011, 30(2): 280-288.

“Lucky in Life, Unlucky in Love? The Effect of Random Income Shocks on Marriage and Divorce” (with Scott Hankins) *Journal of Human Resources* 2011, 46(2): 403-426.

“Externalities in the Classroom: How Children Exposed to Domestic Violence Affect Everyone’s Kids” (with Scott E. Carrell) *American Economic Journal: Applied Economics* 2010, 2(1): 211-228.

“The Effect of Attending the Flagship State University on Earnings: A Discontinuity-Based Approach” *Review of Economics and Statistics* 2009, 91(4): 717-724.

Other Publications

“Returns to Education Quality”. 2020. In Steve Bradley and Colin Green (Eds.), *The Economics of Education: A Comprehensive Overview, 2nd edition*. Edited by Steve Bradley and Colin Green. Elsevier Academic Press.

“Domino Effect” (with Scott E. Carrell). 2009. *Education Next*: 9(3). Available at http://www.hoover.org/publications/ednext/Domino_Effect.html.

Working Papers

“The Scale and Nature of Neighborhood Effects on Children: Evidence from a Danish Social Housing Experiment” (with Stephen B. Billings and Gabriel Pons Rotger)

“Illegal Immigration: The Trump Effect” (with Sandra Orozco-Aleman)

“When Should We Trust Weighted Least Squares Estimates?” (with Cheng Cheng)

Awards

IZA Young Labor Economist Award, 2012 (with Scott E. Carrell)

Teaching Experience

Texas A&M University:

Sports Economics, Public Economics I (PhD-level), Econometrics II (1st-year PhD), Labor Economics I (2nd-year PhD)

University of Pittsburgh:

Labor Economics (PhD-level), Sports Economics, Intermediate Public Finance, Industrial Organization, and Research Methods in Empirical Microeconomics

University of Florida:

Public Finance and Managerial Economics

Department Service

Executive Committee (Fall 2011 – Fall 2014; Fall 2016 – Spring 2017)

Graduate Instruction Committee (Fall 2012 – Spring 2019)

Director of PhD Admissions (Fall 2012 – Spring 2015; Fall 2018 – Spring 2019; Spring 2023)

Director of PhD Program (Fall 2012 – Fall 2014)

Applied Microeconomics Search Committee (2011-12, 2012-13, 2014-15)

Primary Dissertation Advisor (Initial Placement, Current Position)

(Non-tenure track positions and co-advisor roles are noted if applicable; excludes committee memberships)

Suhyeon Oh (expected 2025)

Maya Mikdash (expected 2024)

Adam Bestenbostel (2022, Air Force Academy, non-tenure-track Assistant Professor)

Meradee Tangvatchaparong (2021, 5-year non-tenure-track Assistant Professor, Hitotsubashi University's Institute of Economic Research))

CarlyWill Sloan (2020, Claremont Graduate University, now at United States Military Academy West Point)

Brittany Street (2019, University of Missouri)

Abigail Peralta (2018, Louisiana State University)

Yaojing Wang (2017, Bank of America, co-advised with Li Gan, now at Peking University)

Vijetha Koppa (2016, Stephen F. Austin State University, now at Institute of Management

	Technology, Dubai)
<u>Jillian Carr</u>	(2015, Purdue University)
<u>Pierre Mouganie</u>	(2015, American University of Beirut, now at Simon Fraser University)
<u>Gonzalo Sanchez</u>	(2015, Pontificia Universidad Católica de Ecuador)
<u>Cheng Cheng</u>	(2014, University of Mississippi, now at Amazon)

Presentations

Essen Health Conference (keynote speaker, scheduled May 2023); Clemson University (November 2022); Berlin Applied Micro Seminar, October 2022; Simon Fraser University, April 2022, Jinan University, October 2021; National University of Singapore, April 2021; University of Florida, April 2021; ASSA American Economic Association Annual Meeting (x2), January 2021; San Diego State University, October 2020; Boston University, September 2020; University of Maryland, September 2020; Notre Dame, September 2020; NBER Summer Institute – Crime, July 2020; Claremont McKenna College, February 2020; Claremont Graduate University, January 2020; American Economic Association Annual Conference, January 2020; Southern Economic Association Annual Conference, November 2019; Victoria University of Wellington Applied Econometrics Workshop, October 2019 (keynote speaker); University of Mississippi, October 2019; Mississippi State University, October 2019; Stata/Texas Applied Microeconomics Conference, October 2019; University of Florida, May 2019; Georgia Tech, March 2019; West Virginia University, March 2018; University of Tennessee, January 2018, Purdue University, January 2018; University of Kentucky, October 2017; Annual Meeting of the Western Economic Association, June 2017; University of Leicester, June 2017; University of Leicester Domestic Violence Workshop, June 2017; American University of Beirut, March 2017; University of Uppsala, March 2017; Montana State University, April 2016; American University of Beirut, March 2016; Columbia University, February 2016; Annual Meeting of the American Economic Association Meeting (January 2016); Annual Meeting of the Southern Economic Association (November 2015); NBER Education Program Meeting (November 2015); Brigham Young University, February, 2015; Federal Reserve Bank of New York, February, 2015; Stata/Texas Applied Microeconomics Conference, November 2014; University of Florida, November, 2014; Louisiana State University, October 2014; Institute for the Study of Labor (IZA), October 2014; University of Wisconsin-Milwaukee, October 2013; Ghent University, September 2013; University of Texas – Dallas, April 2013; Stata/Texas Applied Microeconomics Conference, December 2012; Southern Economic Association Annual Meeting, November 2012; University of Texas-Austin, April 2012; Georgetown Public Policy Institute, April 2012; University of Missouri, October 2011; Baylor University, August 2011; Texas A&M University, November 2010; University of Houston, October 2010; University of Pittsburgh School of Medicine, Psychiatry and Epidemiology Seminar, October 2009; NBER Summer Institute, Law and Economics Program, July 2009; University of California at Davis, April 2009; University of California at Berkeley Labor Lunch, March 2009; American Economic Association Annual Meetings, January 2009; Texas A&M University, September 2008; Carnegie Mellon University, September 2008; NBER Summer Institute, Economics of Education Program, July 2008; Society of Labor Economists Annual Meeting, May 2008; Vanderbilt University, April 2008; NBER Education Working Group, November 2006

Other Information

Referee: American Economic Journal: Applied Economics, American Economic Journal: Economic Policy, American Economic Review, American Journal of Health Economics, American Sociological Review, Berkeley Electronic Press, Contemporary Economic Policy, Economic Development and Cultural Change, Economic Inquiry, Economic Journal, Economics of Transition, Education Economics, Education Finance and Policy, Empirical Economics, European Journal of Law & Economics, Journal of Applied Econometrics, Journal of Comparative Economics, Journal of Demographic Economics, Journal of the European Economic Association, Journal of Health Economics, Journal of Human Resources, Journal of Labor Economics, Journal of Policy Analysis and Management, Journal of Political Economy, Journal of Population Economics, Journal of Public Economics, Journal of Sports Economics, Journal of Urban Economics, Labour Economics, Proceedings of the National Academy of Sciences (PNAS), Quantitative Finance, Quarterly Journal of Economics, Regional Science and Urban Economics, Review of Economics and the Household, Review of Economics and Statistics, and Southern Economic Journal.

Reviewer: Israel Science Foundation, National Science Foundation, Marsden Fund (New Zealand), Dutch Research Council

Citizenship: United States

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

LA UNION DEL PUEBLO ENTERO, et al.,
Plaintiffs,

v.

GREGORY W. ABBOTT, et al.,
Defendants.

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§
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Case No. 5:21-cv-844-XR

STATE DEFENDANTS' BRIEF IN RESPONSE TO
THE UNITED STATES' MOTION FOR SUMMARY JUDGMENT

APPENDIX M



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In The Matter Of

La Union Del Pueblo Entero, et al.,

Plaintiffs

v

State Of Texas, et al.,

Defendants

CASE

5:21-cv-844

Date

4-28-2022

Witness

Brian Keith Ingram, J.D.

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<p>Page 17</p> <p>1 Q. Okay. And had those concerns taken hold among 2 voters in a significant way?</p> <p>3 A. I don't know, but I was glad for the 4 opportunity to talk to the reporter to disabuse folks of 5 those notions if I could.</p> <p>6 Q. Were there any groups of voters that you 7 observed in your role who were exhibiting concerns about 8 voting by mail?</p> <p>9 A. I had a friend of mine who was asking me 10 questions about voting by mail and whether it was safe 11 and I referred him to that article.</p> <p>12 Q. Anyone else?</p> <p>13 A. Can't think of anybody.</p> <p>14 Q. Prior to the 2020 election, what were the 15 built-in security checks for Texas's mail ballot system?</p> <p>16 A. The -- well, you've got an application for 17 ballot by mail, the application goes through the process 18 of making sure that that voter is actually registered 19 and that the address listed is the address on file for 20 that voter, if not, then a -- with the balloting 21 materials they are going to give a statement of 22 residence, and so you get the application with the 23 signature and then, of course, you get the carrier 24 envelope and it is put in a jacket envelope with the 25 application so that all of that material is kept</p>	<p>Page 19</p> <p>1 Q. Okay. And then prior to the 2020 election, why 2 did you describe that complete set of built-in security 3 checks as robust?</p> <p>4 A. Well, because -- well, there is not -- I mean 5 there were also the ballot -- the ballot has a serial 6 number, the -- so you know what ballot went to which 7 voter so, you know, you can -- you can keep track of 8 things in a way that you don't have to worry about 9 extraneous votes coming in or somebody voting by mail 10 that shouldn't be.</p> <p>11 Q. And put together, you considered all those 12 security checks to be robust?</p> <p>13 A. Sure.</p> <p>14 MS. HUNKER: Objection, form.</p> <p>15 Q. Did concerns about the mail ballot system 16 persist after the 2020 general election?</p> <p>17 A. They did.</p> <p>18 Q. And why do you think that was?</p> <p>19 MS. HUNKER: Objection, form. Lack of 20 personal knowledge.</p> <p>21 A. Yeah. I don't know.</p> <p>22 Q. On the basis of your personal knowledge as the 23 Chief Elections Administrator for the State of Texas, 24 what was your understanding, if you understood that 25 there were these concerns, why those concerns persisted?</p>
<p>Page 18</p> <p>1 together. I mean there was -- there was, apparently, a 2 belief that you could just have ballots come in from 3 anywhere, you know, you could just get your mail ballot, 4 have it photocopied and 15 people could send in a 5 ballot. Well, that's not the way it works; you have got 6 an application that goes with the ballot, so it is an 7 one-to-one ratio. And then, of course, they do the 8 signature checks and they make sure that the carrier 9 envelope is filled out properly, if there is an 10 assistant, and then the ballot is not counted unless 11 those things are approved by the Ballot Board. And if 12 the Ballot Board or the Signature Verification Committee 13 needs further confirmation that the signatures are those 14 of the voter, they can look at any signatures on file 15 for the last six years to either confirm that it is the 16 voter or to confirm that it is not the voter and it 17 works both ways, but anyway, they can use any signature 18 from the voter registration file or any election files. 19 So any previous applications for ballot by mail or voter 20 registration application, all of those signatures are 21 available for comparison to identify the voter, and so 22 that's -- those were the measures that were in place at 23 that time.</p> <p>24 Q. That's the complete set, just to be clear?</p> <p>25 A. That's right.</p>	<p>Page 20</p> <p>1 MS. HUNKER: Same objection.</p> <p>2 A. I don't know why the concerns persist, that's a 3 very difficult question to answer.</p> <p>4 Q. Are there individuals who continue to advance 5 messaging contrary to your messaging that the security 6 checks are not robust?</p> <p>7 MS. HUNKER: Objection, form. Vague, lack 8 of personal knowledge.</p> <p>9 A. Yeah. There are people out there in the world 10 who want to cast doubt on the legitimacy of our 11 electoral system, our electoral processes.</p> <p>12 Q. Are you aware of any fraud concerning mail 13 ballots in Texas at a scale that could impact statewide 14 contests?</p> <p>15 MS. HUNKER: Objection, form. Lack of 16 foundation. Lack of personal knowledge.</p> <p>17 A. Yeah. Not in a scale that could impact the 18 statewide election, but they definitely -- there is 19 definitely fraud that impacts local elections and 20 changes outcomes.</p> <p>21 Q. Are you aware of any fraud concerning mail 22 ballots in Texas at a scale that could impact a state 23 Senate race?</p> <p>24 MS. HUNKER: Objection, form.</p> <p>25 A. Like I said, I am not aware of mail ballot</p>

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6 (21 - 24)

<p style="text-align: right;">Page 21</p> <p>1 fraud at a scale that could impact a statewide race so 2 far. Now, if we have a close statewide race then 3 obviously we could. But so far, since I have been in 4 this job for the last 10 years the only -- the closest 5 race was 200,000 statewide, so I guess the Land 6 Commission at one time or the Comptroller was a little 7 closer to that on the primary, but anyway, no, the mail 8 ballot fraud that we see affects the local races 9 primarily.</p> <p>10 Q. Okay. And I apologize if I was unclear. I had 11 meant a race for the Texas Senate not the U.S. Senate. 12 I was trying to -- trying to get a little smaller, but I 13 think that your answer was clear, so thank you for that.</p> <p>14 Did the 2020 election reveal any systemic 15 fraud concerning mail ballots in Texas?</p> <p>16 A. Not anymore than any other election, no.</p> <p>17 Q. Let me repeat myself and try and be a little 18 clearer. Did the 2020 election reveal any broad 19 systemic statewide fraud concerning mail ballots in 20 Texas?</p> <p>21 A. No.</p> <p>22 Q. Did the rate of fraud concerning mail ballots 23 in Texas increase, to your knowledge, during the 2020 24 election?</p> <p>25 A. Not that I know of.</p>	<p style="text-align: right;">Page 23</p> <p>1 question.</p> <p>2 Q. If a voter were to have walked up to you prior 3 to the 2020 election and said, "I am concerned that 4 there is so much fraud in mail ballots that it is going 5 to change the outcome of the presidential election, 6 would you consider those concerns to be based on facts 7 about the mail ballot system in Texas?"</p> <p>8 MS. HUNKER: Objection, form. Improper 9 hypothetical.</p> <p>10 A. Yeah, I would have to ask -- I would have to 11 ask them what specifically their concerns were and how 12 specifically they thought the mail ballot process was 13 capable of being manipulated to that extent. I would 14 need to know what their fear was to know how I could 15 disabuse them of it, if I could.</p> <p>16 Q. Okay. We can move on. I would like to move to 17 your legislative testimony. In March of 2021, did you 18 testify to the Texas House Committee on Elections that 19 Texas elections are in good shape?</p> <p>20 A. I did.</p> <p>21 Q. What did you mean by "good shape"?</p> <p>22 A. I meant that -- that generally the election 23 framework is working the way it is supposed to. The 24 county election officials are doing their job properly 25 and that the Texas elections are in good shape.</p>
<p style="text-align: right;">Page 22</p> <p>1 Q. Were concerns about the mail ballot system that 2 we have discussed based in fact?</p> <p>3 MS. HUNKER: Objection, form, vague.</p> <p>4 A. There is definitely --</p> <p>5 MS. HUNKER: Compound question and lack of 6 personal knowledge.</p> <p>7 Q. Yeah. You may answer.</p> <p>8 A. There is definitely a well-founded concern 9 about the mail ballot process, yes. There are 10 well-founded concerns that predated 2020 that -- that 11 persist.</p> <p>12 Q. Were concerns about the magnitude of fraud 13 within the mail ballot system based in fact?</p> <p>14 MS. HUNKER: Objection, form, vague, lack 15 of personal knowledge.</p> <p>16 Q. You can answer.</p> <p>17 A. Yeah, I don't know what that means.</p> <p>18 Q. Were -- let me try and rephrase that. Were 19 concerns of which you were aware among voters about the 20 scale or magnitude of fraud in the mail ballot system in 21 Texas based in fact during the 2020 election?</p> <p>22 MS. HUNKER: Objection, form, vague, 23 compound, lack of personal knowledge.</p> <p>24 Q. You may answer.</p> <p>25 A. Except for I can't. I don't how to answer that</p>	<p style="text-align: right;">Page 24</p> <p>1 Q. Anything else?</p> <p>2 A. That's it.</p> <p>3 Q. When you said that Texas elections are in good 4 shape, did that reflect on the security of Texas 5 elections?</p> <p>6 A. Partly.</p> <p>7 Q. Would you -- is an election that is in good 8 shape free and fair?</p> <p>9 MS. HUNKER: Objection, form, vague.</p> <p>10 A. I agree. Texas always has free and fair 11 elections.</p> <p>12 Q. Okay. And you also -- am I correct that you 13 testified with respect to the 2020 presidential election 14 that, in spite of all the circumstances, Texas had an 15 election that was smooth and secure?</p> <p>16 A. That's not the entire context of that quote. 17 The point is that, we were trying to pat the county 18 election officials on the back for having a successful 19 election in a pandemic. So people have taken that quote 20 out of context and made a drinking game out of it, but 21 that's not all I said in that sentence, and it is 22 certainly not consistent with the example that I gave 23 which was how my personal election administrator 24 reconfigured my particular polling place to make it safe 25 for activities so that the voters and the workers were</p>

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<p>Page 97</p> <p>1 A. It was consistent --</p> <p>2 MS. HUNKER: Objection, form.</p> <p>3 A. -- with the law and what was required at that</p> <p>4 time. The Legislature now requires a number be provided</p> <p>5 as well.</p> <p>6 Q. Okay. Do you know if family members tend to</p> <p>7 have access to each other's driver's license numbers or</p> <p>8 social security numbers?</p> <p>9 MS. HUNKER: Objection, form.</p> <p>10 A. And like I said in my earlier answer, this idea</p> <p>11 of requesting mail ballots in the name of somebody else</p> <p>12 was a live issue and very much on the minds of the</p> <p>13 Elections Committee as they were working.</p> <p>14 Q. Okay. Do you happen to know if family members</p> <p>15 tend to have access to each's other's drivers license</p> <p>16 numbers or social security numbers?</p> <p>17 A. I don't know.</p> <p>18 Q. Have you ever submitted a joint tax return with</p> <p>19 a family member?</p> <p>20 A. I have a wife that I do joint returns with,</p> <p>21 yes.</p> <p>22 Q. And do you know if your wife's social security</p> <p>23 number is on your tax return?</p> <p>24 A. It is.</p> <p>25 Q. And so would it be possible for you to request</p>	<p>Page 99</p> <p>1 A. I don't know.</p> <p>2 MS. HUNKER: Objection, form. Lack of</p> <p>3 personal knowledge.</p> <p>4 Q. Do you know if it is easier for a nursing home</p> <p>5 resident -- strike that.</p> <p>6 Do you know if it's easier for a nursing</p> <p>7 home provider to put a resident's Texas driver's license</p> <p>8 or social security number on an ABBM than it is for the</p> <p>9 nursing home provider to forge a resident's signature?</p> <p>10 MS. HUNKER: Objection, form. Vague,</p> <p>11 compound. Calls for information that's not personal</p> <p>12 knowledge.</p> <p>13 Q. If you know.</p> <p>14 A. Yeah, I don't have any idea.</p> <p>15 Q. Okay. Are you aware of any instances in which</p> <p>16 an individual intended or attempted to impersonate a</p> <p>17 mail voter as worded by this SB 1 identification number</p> <p>18 requirement?</p> <p>19 A. I don't know. Just had one election so far.</p> <p>20 Q. Sitting here today, though, you can't say that</p> <p>21 you're aware of any acts of voter fraud being thwarted</p> <p>22 by this requirement; is that right?</p> <p>23 MS. HUNKER: Objection, form.</p> <p>24 A. Well, what I know is that, we have had</p> <p>25 testimony in committees on this bill about deceased</p>
<p>Page 98</p> <p>1 an absentee ballot on your wife's behalf using the</p> <p>2 social security number that's on your tax returns?</p> <p>3 MS. HUNKER: Objection, form.</p> <p>4 A. I could.</p> <p>5 Q. Would you say that it is easier or harder for a</p> <p>6 family member to provide a Texas driver's license number</p> <p>7 or social security number than it is for a family member</p> <p>8 to forge a signature of another voter?</p> <p>9 MS. HUNKER: Objection, form. Lack of</p> <p>10 personal knowledge.</p> <p>11 Q. If you know.</p> <p>12 A. And again, I don't know.</p> <p>13 Q. Well, could you forge your wife's signature, do</p> <p>14 you think?</p> <p>15 A. I don't know, never tried.</p> <p>16 Q. Fair enough.</p> <p>17 A. I can't imagine a set of circumstances where I</p> <p>18 would.</p> <p>19 Q. Do you think sitting here today that you could</p> <p>20 create a facsimile of your wife's signature?</p> <p>21 A. I don't know.</p> <p>22 Q. I won't make you try, tempted but I won't.</p> <p>23 Do caregivers tend to have access to</p> <p>24 senior citizen's driver's license numbers or social</p> <p>25 security numbers?</p>	<p>Page 100</p> <p>1 persons, you know, who have mail ballot request in their</p> <p>2 name years after they have died.</p> <p>3 We also had testimony about people who had</p> <p>4 mail ballot requests in their name even though they</p> <p>5 didn't, they swore under oath that they didn't request</p> <p>6 that mail ballot, and that wasn't their signature; so</p> <p>7 that was the testimony in front of the Legislature at</p> <p>8 the committees. And that's what this is trying to stop.</p> <p>9 Now we don't know, yet, whether those kinds of things</p> <p>10 continued. That's going to be something we will have to</p> <p>11 see as upcoming elections happen and people do their due</p> <p>12 diligence and their investigations.</p> <p>13 Q. But sitting here right now, you are not able to</p> <p>14 identify any instances in which these requirements</p> <p>15 awarded an act of voter fraud; is that right?</p> <p>16 MS. HUNKER: Objection, form.</p> <p>17 A. What I am trying to say is that, the evidence</p> <p>18 in front of the Legislature in committee was that there</p> <p>19 are circumstances that exist where this kind of</p> <p>20 requirement could thwart, and that's what we have got</p> <p>21 right now. We don't have actual thwarted.</p> <p>22 Q. Got it.</p> <p>23 MS. HUNKER: Just ask my client to wait</p> <p>24 until I can give my objection.</p> <p>25 A. Sorry. I'm trying real hard.</p>

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Brian Keith Ingram JD 26 (101 - 104)

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<p style="text-align: right;">Page 101</p> <p>1 Q. I have a few follow-up questions about the form 2 of identification hierarchy as you discussed with my 3 colleague, Mike, on Tuesday. I am not going to ask you 4 to run through all of it. But if you could turn to 5 Section 5.02 of SB 1. Are you there? 6 A. Uh-huh. 7 Q. Just focusing on Section 5.02. For a voter who 8 has been issued a Texas driver's license number, what 9 information does Section 5.02 require? 10 MS. HUNKER: Objection, form. Calls for a 11 legal conclusion. 12 A. So it requires that the voter provide their 13 driver's license number or their social security number, 14 last four, or a statement that they don't have either 15 one of those. 16 Q. But for a voter who has been issued a Texas 17 driver's license number does 5.02 require anything 18 different than the Texas driver's license number? 19 MS. HUNKER: Objection, form. 20 A. It does not. 21 Q. Does it require anything else besides the Texas 22 driver's license number? 23 A. There is no requirement for anything further. 24 We suggest and we strongly suggest that they go ahead 25 and put the last four of the social.</p>	<p style="text-align: right;">Page 103</p> <p>1 A. Because we get -- we get a lot of information 2 from DPS from a lot of ways, and so I just want to make 3 sure we are talking about the same thing. If we are 4 talking about the ad hoc process, is that what you're 5 talking about? 6 Q. Well, let me rephrase if it is not clear to 7 you. And I appreciate you letting me know. 8 A. Because 2512 covers the non-citizen process, it 9 covers felons, you know, it is information that DPS has 10 that we can use. 11 Q. Prior to last year, what was the process for 12 importing either social security numbers or DPS numbers 13 into TEAM from DPS databases? 14 A. So is what we instituted after the passage of 15 HB 2512 is an annual process where we would try to 16 maximize the number of full nines that we have in our 17 database, full nine of social security number in our 18 database. 19 Q. And prior to last year, am I correct that a 20 match as part of that process required a match of Texas 21 driver's license numbers that any sort of set of 22 matching criteria at least included a Texas driver's 23 license number? 24 A. I don't believe that's the case, no, sir. 25 Q. Do you know, prior to last year, that process</p>
<p style="text-align: right;">Page 102</p> <p>1 Q. My question, though, is the ballot -- 2 A. We cannot require it because the law doesn't 3 require it. 4 Q. And focusing on Section 5.08 of SB 1, for a 5 voter who -- for a voter who has been issued a Texas 6 driver's license number, what information does 7 Section 5.08 of SB 1 require? 8 A. It requires the driver's license number. 9 Q. Okay. I would like to turn then to the HB 2512 10 process. 11 A. Okay. 12 Q. When I use the term HB 2512 process, what does 13 that mean? 14 A. There was a bill in the 83rd Session, I believe 15 it is, in 2013, that was HB 2512, and it provided that 16 any information in the driver's license file could be 17 used for voter registration purposes; it amended the 18 Transportation Code to provide for us to have 19 information in the driver's license file to assist with 20 voter registration. 21 Q. Prior to last year, how did you go about 22 importing DPS data into TEAM? What was that process? 23 A. I don't know what that means. 24 Q. Prior to last year, what was the HB 2512 25 process?</p>	<p style="text-align: right;">Page 104</p> <p>1 of infilling SSN-9s, do you know what the criteria were? 2 A. Well, I mean it's the same as we always do. 3 You start out with matching social security numbers, 4 take those off the list, then you match the DLs and take 5 those off the list, and then you match the first and 6 last name, former last name, date of birth, and whatever 7 you got and see if you get more matches. 8 Q. So sitting here today, prior to last year, it 9 is your understanding that there were matches conducted 10 on a basis that did not include a Texas driver's license 11 number that resulted in the implication of an SSN-9? 12 A. Yes. 13 MR. FREEMAN: Can we go off the record for 14 a moment? 15 (Brief pause.) 16 Q. (By Mr. Freeman) If there were a document that 17 stated that, prior to last year, the criteria for 18 importation of an SSN-9 rested on only two document 19 match criteria, both of which included a Texas driver's 20 license number, would that surprise you? 21 A. I would have to go talk to my voter 22 registration manager and see if that's the way they did 23 it. 24 Q. So sitting here today, are you 100 percent 25 confident that SSN-9s were imported without a driver's</p>

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Brian Keith Ingram JD 38 (149 - 152)

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<p style="text-align: right;">Page 149</p> <p>1 A. Yes.</p> <p>2 Q. Is that a document that, to your knowledge, has</p> <p>3 been produced to the plaintiffs in discovery in this</p> <p>4 case?</p> <p>5 A. I would be surprised if it had. It has</p> <p>6 confidential information in it, but it might.</p> <p>7 Q. So if I were to use the term "complaint log"</p> <p>8 would that have a specific meaning to the folks in your</p> <p>9 office?</p> <p>10 A. It would.</p> <p>11 Q. And is there only one complaint log that is</p> <p>12 kept by your office?</p> <p>13 A. Should be.</p> <p>14 Q. How is that document updated?</p> <p>15 A. By my assistant when the complaints come in.</p> <p>16 Q. And so walk me through that process if you</p> <p>17 would, please.</p> <p>18 A. A complaint comes in, it is recorded in the</p> <p>19 complaint log, it is scanned and emailed to me for</p> <p>20 review.</p> <p>21 Q. And do you review every complaint that does</p> <p>22 come in?</p> <p>23 A. I do.</p> <p>24 Q. What happens after you conduct that review?</p> <p>25 A. Either a disposition letter will be put</p>	<p style="text-align: right;">Page 151</p> <p>1 speaking over you.</p> <p>2 Any other information that you could think</p> <p>3 of that might be captured on that document?</p> <p>4 A. Like I said, I don't know. I haven't seen the</p> <p>5 document myself. I think those are the categories.</p> <p>6 Q. Having never seen the document, do you have any</p> <p>7 information about whether it is in fact complete with</p> <p>8 every complaint that has come in or not?</p> <p>9 MS. HUNKER: Objection, form.</p> <p>10 A. I believe it to be complete at least for the</p> <p>11 last several years. It has in the past been the</p> <p>12 responsibility of the legal -- paralegal, legal</p> <p>13 assistant to keep up with that document. Our legal</p> <p>14 assistant recently left us and so it's -- my assistant</p> <p>15 has been doing it. And I am pretty confident that the</p> <p>16 legal assistants that we have had in the last four or</p> <p>17 five years have done a good job of documenting every</p> <p>18 complaint, so that's what I would say about that.</p> <p>19 Q. And so sitting here today, you have reason to</p> <p>20 believe that if a complaint is submitted to your office</p> <p>21 about some unlawful voting activity, the -- that</p> <p>22 complaint has been recorded on the complaint log and a</p> <p>23 scan of it has been saved to your system; is that fair?</p> <p>24 MS. HUNKER: Objection, form.</p> <p>25 A. I believe so.</p>
<p style="text-align: right;">Page 150</p> <p>1 together by my assistant and mailed to the complainant</p> <p>2 or it will be assigned to an attorney for either</p> <p>3 referral to the Attorney General or for a letter back to</p> <p>4 the complainant.</p> <p>5 Q. Who makes the decision, the ultimate decision</p> <p>6 about whether it is issued a -- whether a disposition</p> <p>7 letter is issued or if it is referred to an attorney for</p> <p>8 further follow-up?</p> <p>9 A. Me.</p> <p>10 Q. Anybody else?</p> <p>11 A. No.</p> <p>12 Q. What type of information would appear on the</p> <p>13 complaint log for each complaint that is sent in to your</p> <p>14 office?</p> <p>15 A. I am not sure. I haven't ever seen the</p> <p>16 document myself, so I don't know all of the boxes that</p> <p>17 it has, but it will have -- generally, it will have the</p> <p>18 date the complaint was received, the nat -- the broad</p> <p>19 general nature description of the complaint. The person</p> <p>20 bringing the complaint and I think usually the person</p> <p>21 complained of. It will also have --</p> <p>22 Q. Any others?</p> <p>23 A. -- a column for attorney assigned and then</p> <p>24 disposition.</p> <p>25 Q. Thank you. And forgive me, please, for</p>	<p style="text-align: right;">Page 152</p> <p>1 Q. Ms. Hunker, at this point, I do believe the</p> <p>2 witness testified he would be surprised if it were</p> <p>3 produced in discovery. I will make a formal request</p> <p>4 that we do obtain a copy of that and your office try to</p> <p>5 produce it to us. I recognize that there might be,</p> <p>6 based on the witness' testimony, some material that will</p> <p>7 require redaction. But we, obviously, take no position</p> <p>8 until we have seen it. But if you have to produce it in</p> <p>9 a redacted form of the privilege log, please do so.</p> <p>10 MS. HUNKER: I will note your request and</p> <p>11 do inquiries into the matter. However, to the extent</p> <p>12 that it has confidential information, particularly, if</p> <p>13 that information cannot be redacted without comprising</p> <p>14 the document or can't be redacted at all, we would be</p> <p>15 alleging privilege.</p> <p>16 MR. KANTERMAN: Noted and certainly happy</p> <p>17 to follow-up after the deposition. I certainly</p> <p>18 appreciate the courtesy of taking a look though. Thank</p> <p>19 you.</p> <p>20 Q. (By Mr. Kanterman) Mr. Ingram, moving on to my</p> <p>21 next lines of questions if we could.</p> <p>22 Did you or your office have any</p> <p>23 communications with the Texas Governor and/or the Office</p> <p>24 of the Texas Governor regarding any incidents of illegal</p> <p>25 voting?</p>

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<p>1 MS. HUNKER: Objection, form. Vague and 2 ambiguous.</p> <p>3 A. Yeah. I don't think so.</p> <p>4 Q. Have you or your office have had any 5 communication was the Texas Governor or its office 6 regarding incidents of election fraud?</p> <p>7 MS. HUNKER: Objection, form, vague.</p> <p>8 A. Yeah. I -- I don't know. I mean -- I have had 9 a ton of conversations with the Governor's office over 10 the last 10 years, I don't know, thousands of hours; so 11 have we talked about incidents of election fraud in that 12 probably. Probably we talked about Gregg County, but I 13 don't have a specific recollection of the specific 14 conversation as we sit here today.</p> <p>15 Q. And you said a conversation -- particularly a 16 conversation with Gregg County?</p> <p>17 A. Gregg County, right.</p> <p>18 Q. If you have a memory of that communication 19 generally, what would it have been?</p> <p>20 A. Well, Gregg County is a circumstance where in a 21 primary election one candidate for County Commissioner, 22 one race for County Commissioner had a disproportionate 23 number of mail ballots cast in it and those mail ballots 24 went overwhelmingly for one candidate. The early votes 25 in-person and the election day in-person actually went</p>	<p>Page 153</p> <p>1 Q. Did you have any additional communications with 2 the Texas Governor or his office about violations of 3 Texas election laws besides those we have already 4 discussed?</p> <p>5 MS. HUNKER: Objection, form. Asked and 6 answered.</p> <p>7 A. Yeah. Again, I -- I can't remember any 8 specific conversations, but we talk a lot and we talk 9 about violations of the law a lot. We talk about all 10 kinds of things.</p> <p>11 Q. Have you had any communications with the Texas 12 Attorney General or his office regarding incident of or 13 investigation into illegal voting in the State of Texas?</p> <p>14 MS. HUNKER: I am going to object to the 15 extent this calls for investigative privilege and 16 instruct my witness not to reveal any information 17 concerning complaints that have been referred to the OAG 18 but have yet to be resolved through a final matter.</p> <p>19 A. Yes. I talk to the Attorney General's 20 investigative team on a regular basis.</p> <p>21 Q. And, sir, I am not asking you for specifics of 22 any individual circumstances at the moment, generally, 23 what are those conversations about?</p> <p>24 MS. HUNKER: Same objection with the same 25 advice that my witness not communicate anything specific</p>
<p>Page 154</p> <p>1 for the other candidate by some margin. But because of 2 the overwhelming number of mail ballots that went 3 overwhelmingly for the one candidate, he ended up 4 winning the race by a few votes, and that has been the 5 subject of investigation by the Attorney General and it 6 has been the subject of indictments by the Attorney 7 General.</p> <p>8 Q. And do you have any recollection sitting here 9 today the particulars of the conversations you had with 10 the Governor's office about that situation?</p> <p>11 A. Just what we are talking about here today that 12 it happened and it was investigated.</p> <p>13 Q. You mentioned you had thousands of hours of 14 communications with the Governor's office over your -- 15 the course of your time with the Secretary of State's 16 Office; is that right?</p> <p>17 A. That's right.</p> <p>18 Q. Are those conversations generally in written 19 form in some other form?</p> <p>20 A. No. We talk.</p> <p>21 Q. When you say "talk," are those in-person 22 communications, telephone communications or something 23 else?</p> <p>24 A. Both. Mostly on the phone but we do talk 25 in-person.</p>	<p>Page 156</p> <p>1 with respect to a complaint that has been referred to 2 the Attorney General but has yet to be resolved through 3 every conviction or dismissal.</p> <p>4 A. Yeah. We talk about a lot of stuff. I mean, 5 we talk about complaints that we have sent over. We 6 talk about the language of the statute and what we think 7 it means versus what they think it means. We talk about 8 bills that get filed in the legislative process, so I 9 mean, we talk to them about a variety of things.</p> <p>10 Q. But two of those items that you just mentioned 11 I wanted to discuss a little bit further. If I heard 12 you correctly, first, that you discussed with the 13 Attorney General's Office your interpretation and their 14 interpretation of certain provisions of the law; is that 15 right?</p> <p>16 A. That's right.</p> <p>17 Q. Have you discussed with the Attorney General's 18 Office your interpretation and their interpretation of 19 provisions of SB 1.</p> <p>20 MS. HUNKER: Objection to the extent it 21 calls for investigative privilege as well as 22 attorney-client privilege, specifically where the 23 Secretary of State's Office is requesting advice from 24 the Attorney General, I would advise my client to 25 refrain from any of those type of communications.</p>

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Brian Keith Ingram JD 40 (157 - 160)

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<p>Page 157</p> <p>1 A. No.</p> <p>2 Q. Sir, when you are discussing -- when you are</p> <p>3 having these conversations with the Attorney General's</p> <p>4 Office that you mentioned, those in which they are</p> <p>5 seeking your input on the interpretation of statutory</p> <p>6 language and you are discussing their interpretation,</p> <p>7 are you doing so in furtherance of seeking their legal</p> <p>8 advice?</p> <p>9 A. No. The one instance I can think of, it was</p> <p>10 them explaining to me their interpretation of the Penal</p> <p>11 Code 36.02 so that I would quit sending them complaints</p> <p>12 that they didn't think warranted investigation.</p> <p>13 Q. And in your view was that conversation in</p> <p>14 furtherance of seeking or receiving legal advice from</p> <p>15 them?</p> <p>16 A. No.</p> <p>17 Q. Let's talk about -- let's talk about the scope</p> <p>18 of that conversation then. And can you repeat for me,</p> <p>19 please, the code section you just referred to, 38?</p> <p>20 A. 36.02 of the Penal Code.</p> <p>21 Q. And was it just a single conversation that you</p> <p>22 can recall at the Attorney General's Office in which you</p> <p>23 discuss their interpretation of Section 36.02 of the</p> <p>24 Penal Code?</p> <p>25 A. That's right.</p>	<p>Page 159</p> <p>1 MR. THOMPSON: Will Thompson from the</p> <p>2 Office of the Attorney General.</p> <p>3 THE REPORTER: Okay. We are ready to go</p> <p>4 back, Mr. Kanterman.</p> <p>5 MR. FREEMAN: Actually if we could go off</p> <p>6 the record for a moment.</p> <p>7 MR. KANTERMAN: Thank you very much.</p> <p>8 THE REPORTER: Can we go off the record</p> <p>9 for a moment?</p> <p>10 MR. KANTERMAN: Absolutely. Off the</p> <p>11 record, please.</p> <p>12 (Brief recess.)</p> <p>13 MR. KANTERMAN: Thank you. Just to be</p> <p>14 clear on the record, if I can. The last answer, I</p> <p>15 believe the witness said was in response to my question</p> <p>16 about who attended a phone call, is that -- has that</p> <p>17 been recorded?</p> <p>18 THE REPORTER: Yes, sir.</p> <p>19 MR. KANTERMAN: Thank you very much.</p> <p>20 Q. (BY Mr. Kanterman) Other than yourself and</p> <p>21 Mr. White, Mr. Ingram, was there anyone else present on</p> <p>22 that phone call?</p> <p>23 A. No.</p> <p>24 Q. Do you recall the content of that phone call?</p> <p>25 A. Yes.</p>
<p>Page 158</p> <p>1 Q. And when was that conversation?</p> <p>2 A. Several years ago.</p> <p>3 Q. Do you have a more specific approximation of a</p> <p>4 date?</p> <p>5 A. No.</p> <p>6 Q. Would it be before or after 2020?</p> <p>7 A. It would be before '20. Several years ago, it</p> <p>8 was before '20.</p> <p>9 Q. Do you think it was before 2018?</p> <p>10 A. Don't know.</p> <p>11 Q. Was this a conversation you had in-person, over</p> <p>12 the telephone, by email or some other -- through some</p> <p>13 other media?</p> <p>14 A. It was a phone call.</p> <p>15 Q. And approximately how long did that phone call</p> <p>16 last?</p> <p>17 A. Five, 10 minutes.</p> <p>18 Q. And who attended that phone call, if you</p> <p>19 recall?</p> <p>20 A. Jonathan White and myself.</p> <p>21 THE REPORTER: And excuse me, we had</p> <p>22 someone come in the room.</p> <p>23 Q. Anybody else?</p> <p>24 THE REPORTER: Excuse me just a moment,</p> <p>25 Mr. Kanterman. May I get your name?</p>	<p>Page 160</p> <p>1 Q. And tell me what it was, please.</p> <p>2 A. So 36.02 is the anti-bribery statute, and it</p> <p>3 says that -- that the crime consists of giving anything</p> <p>4 of value to, in part, there is a lot of categories, but</p> <p>5 one of the categories is a voter for that -- that you</p> <p>6 anticipate influencing the voter's discretion in any</p> <p>7 way, right. So to us at the Secretary of State's</p> <p>8 Office, that means the decision whether to vote or not</p> <p>9 is part of the discretion of a voter. And if somebody</p> <p>10 gives, you know, like Free Blue Jean Day on Friday, if</p> <p>11 we all have 100 percent turn out and vote, that to us</p> <p>12 would be a violation of 36.02 because you're influencing</p> <p>13 the discretion of a voter to turn out to actually vote</p> <p>14 or not.</p> <p>15 Jonathan says that the way that they -- or</p> <p>16 said that the way that they interpret that statute is,</p> <p>17 it has to be influencing the voter's discretion in the</p> <p>18 booth in a particular way, so to vote for or against a</p> <p>19 measure, for or against a candidate, and that the meer</p> <p>20 enticement of voting by an offer of a free beer with</p> <p>21 your out voted sticker, or whatever, is not sufficient</p> <p>22 to constitute the crime; that there has been to be an</p> <p>23 actual influencing of the voter's vote itself not their</p> <p>24 decision to vote or not. I still think he is --</p> <p>25 Q. Beyond --</p>

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<p style="text-align: right;">Page 177</p> <p>1 A. I don't know. The Forensic Audit Division is 2 doing that process. I assume it is four separate audits 3 but you would have to ask the FAD. 4 Q. And to your understanding, this audit or these 5 audits remain ongoing; is that right? 6 A. That's correct. 7 Q. Has your office received any final 8 determinations or information from which it could draw 9 final conclusions about the outcome of these audits? 10 A. No. 11 Q. When do you anticipate, if ever, that you will 12 receive such information? 13 A. I don't know. 14 Q. Based on your experience with the Secretary of 15 State's Office, do you believe that illegal voting has 16 had an outcome determinative impact on any election in 17 Texas? 18 A. Yes. 19 MS. HUNKER: Objection, form. 20 Q. I am sorry. I didn't hear the witness' answer. 21 A. Yes. 22 Q. What election do you believe that illegal 23 voting had an outcome determinative impact in? 24 A. Well, there is several of them, but at least 25 that County Commissioner's primary in Gregg County.</p>	<p style="text-align: right;">Page 179</p> <p>1 A. Oh, another one, too. 2 Q. -- remind me of that? 3 A. Yeah, Weslaco Independent School District's 4 Trustee race, and then a Justice of the Peace Court race 5 in South Dallas County. 6 Q. Yeah. And so turning back to the Weslaco 7 Independent School District race election, what year was 8 that? 9 A. I don't know for sure. It was older, maybe 10 2013 or 2014, maybe 2012. 11 Q. And the Justice of the Peace race, I believe 12 you said in South Dallas County, when was that election? 13 A. I don't know for sure, it was before I got here 14 in January of '12, so it was sometime before then. 15 Prosecutions were well underway. 16 Q. And so let's work through each of these. The 17 County Commissioner election in Gregg County in what may 18 be March of 2018, why do you believe illegal voting had 19 an outcome determinative impact on that election? 20 A. Because it did. 21 Q. And what's your basis for that? 22 A. I told you before, the ballot harvesting 23 operation resulted in, I think, 700 mail ballots for 24 that County Commissioner's race which was substantially 25 more than any other commissioner's race in that same</p>
<p style="text-align: right;">Page 178</p> <p>1 Q. And in what year is the Gregg County County 2 Commissioner election that you are referring to? 3 A. I believe it was in March of '18, but I could 4 be wrong about that. 5 Q. And I believe you said there are several, what 6 other elections other than the County Commissioner 7 election in Gregg County, possibly in March of 2018, do 8 you believe illegal voting has an outcome determinative 9 impact on? 10 A. The City of Edinburg mayor's race. Weslaco 11 Independent School District's Trustee race. Maybe 12 Sheriff in Webb County. 13 Q. So that -- I am missing one, forgive me. 14 Sheriff in Webb County. In what year are we referring 15 to? 16 A. The same year as the Gregg County -- it was the 17 same election primary of '18. 18 Q. And was the city of -- there was a city school 19 district election you mentioned, correct? 20 A. That's right. Mayor of Edinburg. And Weslaco. 21 Q. And what year was that election? 22 A. I don't know, maybe November of '18. 23 Q. I believe you mentioned one other election with 24 the same thing, illegal voting had an outcome 25 determinative impact on, sir. Can you --</p>	<p style="text-align: right;">Page 180</p> <p>1 election. The mail ballots in that race were 2 predominantly in favor of one candidate. The votes 3 in-person were in favor of the other candidate, but the 4 huge number of mail ballots in that race swung the 5 election by a few votes to the one who was indicted and 6 charged with ballot harvesting. 7 Q. And who was the one indicted with ballot 8 harvesting? 9 A. I don't know his name. You can look in the 10 newspaper, it is out there. 11 Q. Do you know whether that individual was 12 ultimately convicted or otherwise pled guilty to a 13 criminal offense? 14 A. I do not. 15 Q. Is the only basis that you're offering for your 16 conclusion that the Gregg County race in 2018 had been 17 impacted by illegal voting -- let me ask it differently. 18 Other than the allegation of ballot 19 harvesting in the March 2018 Gregg County election that 20 we are discussing, do you have any other basis upon 21 which you rested your conclusion that illegal voting had 22 an outcome determinative impact on an election? 23 MS. HUNKER: Objection, form. 24 A. Yeah. I don't know what you mean. 25 Q. What I am trying to understand, and hopefully</p>

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1 this will help clarify is: Why do you think that
 2 illegal voting had an outcome determinative impact on
 3 the Gregg County election in March of 2018?
 4 You mentioned to me that there was a
 5 ballot harvesting incident and that charges were brought
 6 against an individual; is that right?
 7 **A. There were charges brought against four**
 8 **individuals.**
 9 Q. And are you aware of whether any of those four
 10 individuals had pled guilty or been convicted of ballot
 11 harvesting or another crime?
 12 MS. HUNKER: Objection, form. Asked and
 13 answered.
 14 **A. Yeah, I don't know.**
 15 Q. And so other than the fact that four
 16 individuals were indicted based upon alleged crimes that
 17 had occurred relating to ballot harvesting, do you have
 18 any other basis for concluding that illegal voting had
 19 an outcome determinative impact on the Gregg County
 20 election in March of 2018?
 21 MS. HUNKER: Objection, form, vague,
 22 ambiguous.
 23 **A. I don't know why you're even asking that**
 24 **question. That's kind of ludicrous. Other than, you**
 25 **know, the crime occurring and causing the outcome is**

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1 **there any other evidence? No. The crime that occurred**
 2 **and caused the outcome is all the evidence, that's all I**
 3 **need.**
 4 **What are you asking?**
 5 **Why are you even asking that? That makes**
 6 **no sense.**
 7 Q. And so is it fair to say that if none of the
 8 four individuals who were indicted with criminal -- let
 9 me step back.
 10 Is it fair to say that, if neither -- if
 11 none of the four individuals that were indicted with
 12 ballot harvesting in relation to the Gregg County, March
 13 2018 election were either -- were ever convicted or
 14 found guilty, that there was, in fact, no proof that
 15 illegal voting activities had an outcome determinative
 16 impact on the Gregg County election?
 17 MS. HUNKER: Objection, form. Ambiguous,
 18 vague, compound, and misstates testimony.
 19 **A. Yeah, of course not. Don't need a conviction**
 20 **to know what happened.**
 21 Q. Let's move on to the Mayor of Edinburg March --
 22 maybe November 2018 election. What is your basis for
 23 concluding that illegal voting had an outcome
 24 determinative impact on that election?
 25 **A. Because the Mayor and his wife were indicted in**

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1 **an illegal voting scheme, along with several other**
 2 **individuals, and the race margin was close.**
 3 Q. Do you know if any of the individuals indicted
 4 for activity relating to the Mayor of Edinburg election
 5 were ever convicted or found guilty of voting rights?
 6 **A. I don't know. I don't know what the outcome**
 7 **was. I think it is still pending. I thought of another**
 8 **election. There was a road utility district election**
 9 **down in Montgomery County that was affected by and**
 10 **swayed by fraud, illegal voting.**
 11 Q. Thank you for that clarification. And when was
 12 that utility election in Montgomery County that you
 13 know?
 14 **A. It was a while back. It would have been maybe**
 15 **'12 or '13, maybe '14.**
 16 Q. So let me ask you this: I believe you have
 17 listed six elections in Texas that you think have been
 18 influenced in an outcome determining fashion by illegal
 19 voting in Texas. Other than those six, can you think of
 20 any others as you sit here today?
 21 **A. I can't as I sit here right now, but I could**
 22 **maybe given time. I just -- I don't know off the top of**
 23 **my head.**
 24 Q. Let's return to the Mayor of Edinburg election
 25 we were just talking about, which you say might have

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1 been in November of 2018. If I recall, sir, it was
 2 that -- a number of individuals had been indicted but
 3 you were unsure whether any of them had been convicted
 4 or found guilty of any election-related crime; is that
 5 right?
 6 MS. HUNKER: Objection, form.
 7 **A. That's right.**
 8 Q. If you learned that none of those individuals
 9 were found guilty of or ultimately convicted of
 10 election-related crimes, would that alter your
 11 conclusion that the Edinburg Mayor election, in November
 12 of 2018, had been influenced in an outcome determinative
 13 fashion by illegal voting?
 14 **A. No.**
 15 Q. Why not?
 16 **A. Because it doesn't matter. Whether or not**
 17 **there is ultimately a conviction doesn't matter. I saw**
 18 **the evidence. I referred the complaint. There was**
 19 **fraud. There was illegal voting.**
 20 Q. So it is your testimony that a fact finder
 21 ultimately concludes there was no fraud as presented.
 22 **A. That's not --**
 23 MS. HUNKER: Objection, form.
 24 **A. That's not what a -- that's not what a failure**
 25 **to convict means. That's not at all what a failure to**

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<p style="text-align: right;">Page 185</p> <p>1 convict means. A failure to convict means that they</p> <p>2 didn't carry their burden of proof by beyond a</p> <p>3 reasonable doubt, it doesn't mean that they were</p> <p>4 actually innocent. Doesn't mean they are innocent at</p> <p>5 all.</p> <p>6 Q. I am sorry. I heard something. I just want to</p> <p>7 make sure that I should continue and there is no reason</p> <p>8 to stop?</p> <p>9 A. Everything is fine. We got a thumbs up.</p> <p>10 Q. Okay. Thank you very much.</p> <p>11 Turning next, sir, to the Webb County</p> <p>12 Sheriff's election in March of 2018.</p> <p>13 A. That one --</p> <p>14 Q. What is your basis in that regard?</p> <p>15 A. I had a long conversation with Senator</p> <p>16 Zaffirini, she was convinced and, therefore, I was</p> <p>17 convinced, I don't believe any criminal charges were</p> <p>18 ever brought in connection with that matter, but it was</p> <p>19 a similar kind of scheme to the one in Gregg County in</p> <p>20 that Commissioner's race where the mail ballots were</p> <p>21 heavily one way and a lot more of them than normal.</p> <p>22 Q. You would agree with me, wouldn't you, that</p> <p>23 increased number of mail ballots in a particular</p> <p>24 election does not necessarily yield a conclusion that</p> <p>25 fraud or illegal voting has occurred; is that right?</p>	<p style="text-align: right;">Page 187</p> <p>1 Q. And what's your basis that that election was</p> <p>2 influenced in an outcome determinative way by illegal</p> <p>3 voting?</p> <p>4 A. The Justice of the Peace who was elected and</p> <p>5 several of his family members were charged with and</p> <p>6 convicted of crimes including illegal voting and mail</p> <p>7 ballot harvesting.</p> <p>8 Q. And so I recognize you say they were convicted.</p> <p>9 But I guess my question is a little bit more specific,</p> <p>10 which is, whether or not those convictions reflect an</p> <p>11 outcome determinative impact on the election?</p> <p>12 Do you have any more specific reason to</p> <p>13 conclude that the acts of these individuals had an</p> <p>14 outcome determinative impact on that election?</p> <p>15 A. No. It was before my time, and I didn't refer</p> <p>16 that complaint, so I don't have any more details other</p> <p>17 than what was in the newspaper.</p> <p>18 Q. So I am actually going to circle back briefly</p> <p>19 for a moment. So the Gregg County election that we</p> <p>20 talked about in March of 2018, you said that there were</p> <p>21 some, in your view, ballot harvesting activities.</p> <p>22 What basis do you have for concluding that</p> <p>23 those activities had an outcome determinative impact on</p> <p>24 the election?</p> <p>25 A. Have I not said this twice already?</p>
<p style="text-align: right;">Page 186</p> <p>1 MS. HUNKER: Objection, form.</p> <p>2 A. Not necessarily, but whenever the</p> <p>3 disproportionate number also is matched by a</p> <p>4 disproportionate proportion in favor of one candidate</p> <p>5 over another and that disproportionate sort of</p> <p>6 favoritism for that candidate isn't reflected in the</p> <p>7 in-person votes, that leads a reasonable person to</p> <p>8 believe that fraud is occurring.</p> <p>9 Q. Let's turn next to the Weslaco Independent</p> <p>10 School District election in what I think you said might</p> <p>11 have been on or before 2017. What basis do you have for</p> <p>12 concluding that that election was influenced in an</p> <p>13 outcome determinative fashion by illegal voting?</p> <p>14 A. There were a couple of PolitiCares who were</p> <p>15 convicted of ballot harvesting in that case and,</p> <p>16 unfortunately, the Trustee who was elected eventually</p> <p>17 committed suicide.</p> <p>18 Q. Any other reasons for your conclusion that that</p> <p>19 race was outcome determinatively impacted by illegal</p> <p>20 voting?</p> <p>21 A. No. That's it.</p> <p>22 Q. You mentioned next the Justice of the Peace</p> <p>23 race in South Dallas County which might have been before</p> <p>24 January of 2012. Do you remember that?</p> <p>25 A. It was definitely before January of 2012.</p>	<p style="text-align: right;">Page 188</p> <p>1 MS. HUNKER: Objection, form. Asked and</p> <p>2 answered.</p> <p>3 A. Yeah. I am not going over that again.</p> <p>4 Q. Are you refusing to answer the question, sir?</p> <p>5 A. I have answered the question twice already in</p> <p>6 detail.</p> <p>7 Q. If you would just indulge me then and forgive</p> <p>8 my possible repetition. What is the outcome deter --</p> <p>9 what is the basis of that impact was outcome</p> <p>10 determinative of that election?</p> <p>11 A. For the third time, here we go. There were a</p> <p>12 disproportionate number of mail ballots in that race.</p> <p>13 There was something over 700 instead of the 120 or so</p> <p>14 that were in the other County Commissioner Court races,</p> <p>15 so seven times as many mail ballots. They were</p> <p>16 disproportionately 80/20, 85/15 for one candidate over</p> <p>17 the other. Their early votes in-person -- the election</p> <p>18 day votes in-person went for the other candidate, but</p> <p>19 the margin built up in the mail ballots was such a</p> <p>20 degree that it flipped the race for the one who was</p> <p>21 getting the disproportionate number of mail ballots by a</p> <p>22 few votes. It was a close election.</p> <p>23 Q. Okay. Thank you. Let's go to the last of the</p> <p>24 elections you pointed to. I think you said it was road</p> <p>25 utility in Montgomery County sometime between 2012 and</p>

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<p>1 2014. Do I have that right?</p> <p>2 A. You do.</p> <p>3 Q. And what is your basis for concluding that that</p> <p>4 election was impacted in an outcome determinative</p> <p>5 fashion by illegal voting?</p> <p>6 A. Well, the road utility district had only two or</p> <p>7 three registered voters in the whole district, and so</p> <p>8 what a group of Montgomery County folks decided to do is</p> <p>9 register to vote at a Roadway Inn and run for office in</p> <p>10 that road utility district so that they could influence</p> <p>11 the letting of bonds; and so they -- they did that, the</p> <p>12 ten of them registered at a Roadway Inn that they didn't</p> <p>13 live at, and they proceeded to -- a couple of them filed</p> <p>14 for office on the district trustees that were up for</p> <p>15 election, and they voted their compadres in as trustees</p> <p>16 on the road utility district. There was an election</p> <p>17 contest filed. The election was overturned because of</p> <p>18 illegal voting. The complaint was sent to the Attorney</p> <p>19 General and seven of those ten persons were convicted of</p> <p>20 illegal voting and sentenced to prison.</p> <p>21 Q. Changing subjects again. Are you aware of any</p> <p>22 instances of violence, intimidation, harassment, or</p> <p>23 other misconduct from a poll watcher?</p> <p>24 MS. HUNKER: Objection, form. Vague as to</p> <p>25 the determine "other misconduct."</p>	<p>Page 189</p> <p>1 Q. Of the somewhere between 50 and 100 complaints,</p> <p>2 have any been referred to the Attorney General's Office</p> <p>3 for further investigation?</p> <p>4 A. Yes.</p> <p>5 Q. Do you know how many?</p> <p>6 A. Oh, you're talking about complaints about poll</p> <p>7 watchers, no. Complaints about election officials</p> <p>8 obstructing poll watchers, yes.</p> <p>9 Q. And so the "no" is modifying your last answer.</p> <p>10 You have not referred any complaint about the behavior</p> <p>11 of poll watchers to the Attorney General's Office for</p> <p>12 investigation from January 2018 to present?</p> <p>13 A. I don't think so, no. Those are usually</p> <p>14 handled locally.</p> <p>15 Q. Did your office maintain any policies,</p> <p>16 practices, or procedures regarding the Americans With</p> <p>17 Disabilities Act or other laws protecting individuals</p> <p>18 with disabilities as those laws pertain to voting in an</p> <p>19 election?</p> <p>20 A. I don't know what that question means.</p> <p>21 Q. Is there anyone specific in your office who</p> <p>22 handled the intake of complaints or requests relating to</p> <p>23 ADA accommodations or voters with disabilities in Texas?</p> <p>24 MS. HUNKER: Objection, form, lack of</p> <p>25 foundation, vague, and assumes facts not in evidence.</p>
<p>Page 190</p> <p>1 Q. I will try to finish my question and ask it --</p> <p>2 maybe I will just ask it differently at this point.</p> <p>3 Are you aware of any instances of violence</p> <p>4 involving either a poll watcher, poll worker, clerk, or</p> <p>5 election judge in Texas since SB 1 was enacted?</p> <p>6 A. No.</p> <p>7 Q. Are you aware of any complaint about the</p> <p>8 behavior of poll watchers from January 2018 through</p> <p>9 present day?</p> <p>10 A. Yes.</p> <p>11 MS. HUNKER: Objection, form.</p> <p>12 Q. Approximately how many complaints are you aware</p> <p>13 of?</p> <p>14 A. I don't know.</p> <p>15 Q. Less than 100?</p> <p>16 A. Probably.</p> <p>17 Q. Less than 50?</p> <p>18 A. I don't know about that.</p> <p>19 Q. Are there any materials that would help refresh</p> <p>20 your recollection or inform your opinion about how many</p> <p>21 such complaints there might be?</p> <p>22 THE REPORTER: I'm sorry. You cut out</p> <p>23 there. "Opinion about how many" ...</p> <p>24 Q. Such complaints there might be?</p> <p>25 A. No.</p>	<p>Page 192</p> <p>1 A. One of my lawyers that recently left us was the</p> <p>2 one who headed up sort of the disability function of our</p> <p>3 office. So what happens is, Disability Rights of Texas</p> <p>4 will go out and audit counties in an election to find</p> <p>5 out if their polling places are acceptable and if they</p> <p>6 are meeting the requirements of the Help America Vote</p> <p>7 Act with regard to voting machine accessibility, and</p> <p>8 they send a copy of those audits to our office as well</p> <p>9 as to the county election official, and I usually have a</p> <p>10 lawyer -- I don't have one designated currently because,</p> <p>11 like I said, she recently left -- who will go over that</p> <p>12 audit and call the county and see if we can offer any</p> <p>13 help or assistance in remedying some of the things that</p> <p>14 Disability Rights of Texas finds.</p> <p>15 Q. And so you mentioned offering the county help</p> <p>16 or assistance. What sort of help and assistance have</p> <p>17 you offered in the past?</p> <p>18 A. We have got the original -- we have got the</p> <p>19 ability now that we didn't used to have to send trainers</p> <p>20 to go talk to the county about the specific issues and</p> <p>21 to work with them to come up with remediations;</p> <p>22 sometimes the polling place can't be salvaged and they</p> <p>23 will have to find a different polling place.</p> <p>24 Q. And the individuals you say you send to, I</p> <p>25 guess, provided by you, are those individuals sponsored</p>

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IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

LA UNION DEL PUEBLO ENTERO, et al.,
Plaintiffs,

v.

GREGORY W. ABBOTT, et al.,
Defendants.

§
§
§
§
§
§
§

Case No. 5:21-cv-844-XR

STATE DEFENDANTS' BRIEF IN RESPONSE TO
THE UNITED STATES' MOTION FOR SUMMARY JUDGMENT

APPENDIX N

Keith Ingram

March 28, 2023

1 IN THE UNITED STATES DISTRICT COURT
 2 FOR THE WESTERN DISTRICT OF TEXAS
 SAN ANTONIO DIVISION
 3 LA UNION DEL PUEBLO ENTERO,)
 et al.,)
 Plaintiffs,)
 4 vs.) Civil Action No.
 STATE OF TEXAS, et al.,) 5:21-cv-844(XR)
 5 Defendants.)(Consolidated Cases)

6
 7 -----
 ORAL DEPOSITION OF
 KEITH INGRAM
 March 28, 2023
 Volume 1
 9 -----

10
 11 ORAL 30(b)(1) DEPOSITION OF KEITH INGRAM, Volume
 12 1, produced as a witness at the instance of the
 13 Plaintiffs, and duly sworn, was taken in the
 14 above-styled and numbered cause on March 28, 2023, from
 15 9:15 a.m. to 4:18 p.m., before Dana Shapiro, CSR, in
 16 and for the State of Illinois, reported by machine
 17 shorthand, at 209 W. 14th Street, Austin, Texas 78701,
 18 pursuant to the Federal Rules of Civil Procedure and
 19 any provisions stated on the record or attached
 20 hereto.

Keith Ingram

March 28, 2023
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<p style="text-align: right;">Page 18</p> <p>1 if she was called up in that. There was elections bill</p> <p>2 there, but I don't know if she actually had to testify.</p> <p>3 Q. What's a sec -- did you -- sorry.</p> <p>4 A. Oh, she did have to testify. It was on</p> <p>5 Tuesday, that's right. Tuesday a week ago.</p> <p>6 Q. Did you help her prepare for any of those</p> <p>7 committee hearings?</p> <p>8 A. We discussed some of the bills that were</p> <p>9 going to get heard at some of those hearings just</p> <p>10 generally.</p> <p>11 Q. Did any of those bills impact or modify the</p> <p>12 provisions of SB 1?</p> <p>13 A. Yes.</p> <p>14 Q. Which one is that?</p> <p>15 A. Well, it's not a direct impact on SB 1. It</p> <p>16 was more modification of House Bill 1382 in the regular</p> <p>17 session of last time, but it was a Bucy bill and house</p> <p>18 elections that modifies the requirements for accessing</p> <p>19 the ballot tracker.</p> <p>20 Q. Is that HB 357?</p> <p>21 A. I don't know.</p> <p>22 Q. Anything else?</p> <p>23 A. I think that might be it.</p> <p>24 Q. What's a Secretary of State clean up bill?</p> <p>25 A. That's usually we will have a bill with</p>	<p style="text-align: right;">Page 20</p> <p>1 A. You mean if a voter decided to vote in</p> <p>2 person and cancelled the mail ballot?</p> <p>3 Q. Yes.</p> <p>4 A. I don't know.</p> <p>5 Q. Do you know if it excludes any other forms</p> <p>6 of rejections?</p> <p>7 A. It shouldn't. I mean ballots that came in</p> <p>8 late aren't technically rejected, they are just late.</p> <p>9 Q. Did you testify to the notion that you</p> <p>10 expected that the number of statewide mail ballot</p> <p>11 rejections would continue to improve as you go forward</p> <p>12 in implementation of SB 1?</p> <p>13 A. That's my belief.</p> <p>14 Q. What's your basis for that belief?</p> <p>15 A. The trend that we've got so far, and past</p> <p>16 experience.</p> <p>17 Q. Why do you expect that the trend will</p> <p>18 necessarily continue?</p> <p>19 A. Because voters get more used to it and</p> <p>20 ballot boards get more used to it as it goes through</p> <p>21 election, continuous elections.</p> <p>22 Q. With respect to voters, are there a</p> <p>23 different set of voters in every election that are</p> <p>24 eligible to vote by mail in Texas?</p> <p>25 A. Well, yes, I presume so.</p>
<p style="text-align: right;">Page 19</p> <p>1 some suggested small tweaks and changes throughout the</p> <p>2 election code to make it more harmonious or to get rid</p> <p>3 of obsolete language. We don't have a clean up bill</p> <p>4 this time.</p> <p>5 Q. Getting ahead of me, which is helpful.</p> <p>6 At any time did you expect to testify on</p> <p>7 March 16 before the House Elections Committee?</p> <p>8 A. No.</p> <p>9 Q. Let's turn to March 9 hearing. During your</p> <p>10 testimony before the House Elections Committee on March</p> <p>11 9, did you testify concerning the statewide mail ballot</p> <p>12 rejection rate in Texas; do you recall?</p> <p>13 A. I did.</p> <p>14 Q. Did you say that it was under 3 percent?</p> <p>15 A. I did for the general election, yes.</p> <p>16 Q. Am I correct this figure represents only</p> <p>17 final rejections of mail ballots?</p> <p>18 A. That's correct.</p> <p>19 Q. Does it exclude those that were rejected,</p> <p>20 then cured?</p> <p>21 A. It does.</p> <p>22 Q. Does it exclude those that were rejected,</p> <p>23 then cancelled?</p> <p>24 MS. HUNKER: Objection, form.</p> <p>25 BY THE WITNESS:</p>	<p style="text-align: right;">Page 21</p> <p>1 Q. New voters turned 65?</p> <p>2 A. But there is overlap as well. People that</p> <p>3 voted by mail continue to vote by mail.</p> <p>4 Q. Will the new voters who are eligible have</p> <p>5 had an opportunity to learn about the process?</p> <p>6 A. Well, they will learn about it as they vote</p> <p>7 by mail for the first time.</p> <p>8 Q. But the first time they won't have had</p> <p>9 experience or a learning curve?</p> <p>10 MS. HUNKER: Objection, form.</p> <p>11 BY THE WITNESS:</p> <p>12 A. They have peers who experience and a</p> <p>13 learning curve. They talk to each other at Sunday</p> <p>14 school, they talk to each other at church, and at the</p> <p>15 rotary club. So the fact is that the experience of all</p> <p>16 of the voters increases even as new voters vote by</p> <p>17 mail.</p> <p>18 BY MR. FREEMAN:</p> <p>19 Q. With respect to the ballot boards, were</p> <p>20 there errors of any kind by the ballot boards that</p> <p>21 contributed to the rejection rate in the November</p> <p>22 general election?</p> <p>23 A. I don't know for sure because, you know,</p> <p>24 obviously we are not on the ground other than in a few</p> <p>25 counties observing the ballot boards. Anecdotally I</p>

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<p style="text-align: right;">Page 22</p> <p>1 heard some ballot boards weren't comparing signatures</p> <p>2 at all, and some ballot boards were still giving</p> <p>3 rigorous examination of signatures. So those two</p> <p>4 things probably offset each other.</p> <p>5 Q. So what further learning by the ballot</p> <p>6 boards do you expect will contribute to reductions of</p> <p>7 the mail ballot rejection rate?</p> <p>8 A. We have been training -- doing direct</p> <p>9 trainings for ballot boards for a couple years now and</p> <p>10 we will continue that. And in the context of that</p> <p>11 training, we talk about the rebuttable presumption</p> <p>12 that's in place after SB 1.</p> <p>13 So, you know, if a signature -- if a voter</p> <p>14 has a number on their carrier envelope that matches a</p> <p>15 number in voter registration record, and then there is</p> <p>16 a rebuttal presumption that signatures are of the same</p> <p>17 voter. Of course we know as lawyers rebuttal</p> <p>18 presumption means it shifts the burden of proof. Well,</p> <p>19 ballot boards don't think that way. But they do need</p> <p>20 to understand the signatures are starting from a</p> <p>21 position of you've got to accept it unless there is</p> <p>22 evidence to reject it. So that doesn't mean you don't</p> <p>23 look at the signature at all. It doesn't mean you do</p> <p>24 the same level of comparison that you would have done</p> <p>25 before.</p>	<p style="text-align: right;">Page 24</p> <p>1 A. That is not exactly true, but because they</p> <p>2 also have to integrate the early voting clerk process</p> <p>3 from 86011D. From previous law, not SB 1, early voting</p> <p>4 clerk has the ability to intervene if a voter has some</p> <p>5 sort of facial compliance issue on their carrier</p> <p>6 envelope. What we have discussed with counties and</p> <p>7 with ballot boards is that if a ballot board sees</p> <p>8 something that could be corrected by the early voting</p> <p>9 clerk, they can pass that carrier envelope back to the</p> <p>10 early voting clerk. You know, something like missed</p> <p>11 number or mismatched number. Then the early voting</p> <p>12 clerk can have either a personal trip to the voter or a</p> <p>13 telephone call to the voter, email to the voter. They</p> <p>14 can do all of those things that the ballot board can't</p> <p>15 necessarily do. They have more flexibility in talking</p> <p>16 to the voters and curing the problem.</p> <p>17 So as we communicate that to the ballot</p> <p>18 boards, I expect that there is going to be more of a</p> <p>19 shift from the ballot board whenever they have got a</p> <p>20 preliminary rejection back to the early voting clerks</p> <p>21 because the early voting clerks has more flexibility in</p> <p>22 dealing with that preliminary rejection and getting the</p> <p>23 voter successfully in place with the vote. So they</p> <p>24 want to make sure that that happens. And so I think</p> <p>25 that's going to increase over time as well.</p>
<p style="text-align: right;">Page 23</p> <p>1 Q. Is there any learning by the ballot boards</p> <p>2 that you think you anticipate will lead to reductions</p> <p>3 in rejections based on the driver's license numbers or</p> <p>4 Social Security number requirement of SB 1?</p> <p>5 A. Yes, I think as the ballot boards get more</p> <p>6 used to this they will accord the number the</p> <p>7 appropriate way. The number is designed to take the</p> <p>8 place of a less objective measure, which is the</p> <p>9 signature. So they -- as they rely on the number and</p> <p>10 then give the signature the weight it's supposed to</p> <p>11 have and only overcome it if there is some sort of</p> <p>12 evidence to overcome it then I think more ballots will</p> <p>13 get accepted.</p> <p>14 Q. Were some ballot boards not recording the</p> <p>15 information the appropriate way.</p> <p>16 A. No. They weren't giving it the weight it's</p> <p>17 supposed to be given.</p> <p>18 Q. I see. Any rejection -- just so I'm clear.</p> <p>19 Any reduction in the mail ballot rejection rate based</p> <p>20 on learning from the ballot boards will be related to</p> <p>21 this signature, and not a reduction in rejections for</p> <p>22 failure to match a number for the driver's license</p> <p>23 field or Social Security number field?</p> <p>24 MS. HUNKER: Objection, form.</p> <p>25 BY THE WITNESS:</p>	<p style="text-align: right;">Page 25</p> <p>1 Q. Are you aware of any counties where the</p> <p>2 early voting clerks were not engaged in this</p> <p>3 preliminary review of SB 1 compliance?</p> <p>4 A. Well, I don't know if early voting clerks</p> <p>5 are aware that they can do that. It's something that</p> <p>6 we wanted to make sure that they understood, that</p> <p>7 really the general election in '22 was the first time</p> <p>8 we had a full fledged effort into educating with regard</p> <p>9 to that. And so we expect that that education will</p> <p>10 penetrate more as we go from election to election in</p> <p>11 the future.</p> <p>12 Q. Certainly early voting clerks in large</p> <p>13 counties were engaged in this effort throughout the</p> <p>14 November 2022 general election period, correct?</p> <p>15 A. I don't know if every large county, but I</p> <p>16 would assume the larger counties, they are more plugged</p> <p>17 into our advice. And so yes, generally I would agree</p> <p>18 with that.</p> <p>19 Q. Any improvement in terms of the actions</p> <p>20 early voting clerk be mostly concentrated in smaller</p> <p>21 counties; is that right?</p> <p>22 MS. HUNKER: Objection, form.</p> <p>23 BY THE WITNESS:</p> <p>24 A. Most of the counties in Texas are smaller</p> <p>25 counties. We need to penetrate to the smaller</p>

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<p style="text-align: right;">Page 34</p> <p>1 Q. So the changes that you suggest, the three</p> <p>2 changes to SB 1?</p> <p>3 A. Well, three changes to SB 1, one to the</p> <p>4 ballot tracker, so four changes.</p> <p>5 Q. How would you describe those if they are</p> <p>6 sort of suggestions coming out of your office, but you</p> <p>7 are never for a bill? How does that fit?</p> <p>8 A. It's our office's role to advise on</p> <p>9 technical implementation process. And any time you</p> <p>10 have got a new thing like a corrective ballot,</p> <p>11 corrective action procedure for mail ballots, you are</p> <p>12 going to have some kinks in it that need to be worked</p> <p>13 out. It's our office's role to point out those kinks</p> <p>14 and suggest ways to work those out.</p> <p>15 Whenever we implemented annual ballots by</p> <p>16 mail, the first law was House Bill 666 in 2013. It was</p> <p>17 about this long, and it just said that a voter can ask</p> <p>18 one time for all of the ballots by mail. So there were</p> <p>19 so many things. That was the hardest thing we've ever</p> <p>20 had to implement before SB 1. It was so complicated.</p> <p>21 The next session there was a bigger -- much bigger bill</p> <p>22 to correct that process and make it more uniform. And</p> <p>23 then there was another bill the next session. So any</p> <p>24 time that there is a big change like that you expect</p> <p>25 there is going to be some need to correct the</p>	<p style="text-align: right;">Page 36</p> <p>1 to the counties.</p> <p>2 Q. With respect to the voter who lacked</p> <p>3 driver's license or Social Security number information</p> <p>4 in their voter registration files, what purpose do the</p> <p>5 mail ballots provisions of SB 1 serve?</p> <p>6 MS. HUNKER: Objection, form.</p> <p>7 BY THE WITNESS:</p> <p>8 A. The same as they serve for any other</p> <p>9 person, which is to identify the voter.</p> <p>10 BY MR. FREEMAN:</p> <p>11 Q. Is it possible for SB 1 to serve that</p> <p>12 purpose if the voter doesn't have a driver's license</p> <p>13 number or Social Security number on file?</p> <p>14 A. Sure.</p> <p>15 Q. How would that happen?</p> <p>16 A. They put one on file as part of the</p> <p>17 corrective action process.</p> <p>18 Q. So absent the voter taking further action</p> <p>19 to supplement their registration file, can it serve any</p> <p>20 purpose?</p> <p>21 A. Absolutely. It serves the purposes of</p> <p>22 making them supplement their voter registration file so</p> <p>23 we have a more complete file. That helps us with all</p> <p>24 kinds of matching on our list maintenance. It serves a</p> <p>25 purpose, absolutely.</p>
<p style="text-align: right;">Page 35</p> <p>1 implementation to make it more smooth. And that's our</p> <p>2 office's role to suggest those changes. Not that they</p> <p>3 were for or against them. If you want to make a</p> <p>4 change, here's something you might think about.</p> <p>5 Q. Thank you for clarifying. I appreciate it.</p> <p>6 Would you say then that during your time in</p> <p>7 the elections division at the Office of the Secretary</p> <p>8 of State, SB 1 has been the hardest bill to implement?</p> <p>9 A. It was by far the most comprehensive set of</p> <p>10 changes we ever had. It was every single form, every</p> <p>11 single bit of educational material, every outline,</p> <p>12 every everything had to change.</p> <p>13 Q. Going back to the March 9 hearing. Did you</p> <p>14 testify that statewide there were 163 ballots rejected</p> <p>15 based on SB 1 requirements for voters who did not have</p> <p>16 either a Social Security number or a driver's license</p> <p>17 number in the system?</p> <p>18 A. I did.</p> <p>19 Q. Were those ballots or were those ballot</p> <p>20 requests?</p> <p>21 A. Those were ballots.</p> <p>22 Q. How did those voters get ballots sent to</p> <p>23 them if they didn't have driver's license numbers or</p> <p>24 Social Security numbers in the system?</p> <p>25 A. That I don't know. You would have to talk</p>	<p style="text-align: right;">Page 37</p> <p>1 Q. With respect to voters who do not currently</p> <p>2 have a driver's license number or Social Security</p> <p>3 number on file, is there any connection between those</p> <p>4 numbers and the voter's qualifications to vote in Texas</p> <p>5 elections?</p> <p>6 MS. HUNKER: Objection, form.</p> <p>7 BY THE WITNESS:</p> <p>8 A. Well, I mean obviously to vote successfully</p> <p>9 they are going to have produce an ID when they vote in</p> <p>10 person, and they are going to have to do the same thing</p> <p>11 when they vote by mail.</p> <p>12 BY MR. FREEMAN:</p> <p>13 Q. Not produce an ID, but produce a number?</p> <p>14 A. Produce an ID.</p> <p>15 Q. When they vote by mail?</p> <p>16 A. That's right, that's what the number is</p> <p>17 it's an ID number.</p> <p>18 Q. Sorry. When you say ID I thought you meant</p> <p>19 like a copy of a card.</p> <p>20 With respect to a voter who does not have a</p> <p>21 Social Security number or driver's license number on</p> <p>22 file, is there any connection between that number and</p> <p>23 establishing the voter's identity prior to any</p> <p>24 supplementation of their registration record?</p> <p>25 A. I'm not sure I understand that question.</p>

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<p style="text-align: right;">Page 38</p> <p>1 Q. Well, if they don't have a driver's license 2 number or Social Security number on record, is there a 3 connection between the voter providing that number and 4 the voter establishing their identity? 5 A. Yes. 6 Q. Does the voter establish their identity 7 when they submit a mail ballot request with their 8 driver's license number if the driver's license number 9 isn't on TEAM? 10 MS. HUNKER: Objection, form, asked and answered. 11 BY THE WITNESS: 12 A. I don't know what you are getting at. Yes. 13 BY MR. FREEMAN: 14 Q. So switching gears, and we don't need to 15 take a break yet, that's good. 16 How long did you serve as director of the 17 elections division in the Office of the Texas Secretary 18 of State? 19 A. 11 years, two months, five days. 20 Q. Based on your experience would you agree -- 21 A. Not that I was counting. 22 Q. Based on your experience, would you agree 23 that a form provided to voters should be designed so 24 that a voter who follows the instructions will have the 25 form accepted?</p>	<p style="text-align: right;">Page 40</p> <p>1 Q. Any current plans to alter the form? 2 A. No. 3 Q. Has your office considered altering the 4 form since it was issued? 5 A. No, not this form. 6 Q. Why not? 7 A. There is not a need to. 8 Q. Is there a statutory reason this form could 9 not inform voters that they may provide both a Texas 10 driver's license number and a partial Social Security 11 number? 12 MS. HUNKER: Objection, form. 13 BY THE WITNESS: 14 A. It's not what the law says. The form 15 outlines the law. 16 BY MR. FREEMAN: 17 Q. Okay. And so if the form outlines the law, 18 is it not allowed for the form to inform voters that 19 they may provide both numbers? 20 A. Not on the form. It's not the law. 21 Q. Understood. 22 Has your office suggested any kind of 23 amendments to SB 1 that would permit including that 24 information on this form? 25 A. No. There is plenty of outside channels</p>
<p style="text-align: right;">Page 39</p> <p>1 MS. HUNKER: Objection, form. 2 BY THE WITNESS: 3 A. Yes, that's true. That's the goal of the 4 form. 5 BY MR. FREEMAN: 6 Q. Since the May 2022 runoff, did the Office 7 of the Secretary of State make any changes to the 8 absentee ballot by mail application? 9 A. We changed several forms. I'm pretty sure 10 the application if it's got an oath of assistance on it 11 it changed, yes. 12 MR. FREEMAN: Mark this as Exhibit 2. 13 (WHEREUPON, a certain document was 14 marked Deposition Exhibit No. 2, 15 for identification, as of 3/28/23.) 16 BY MR. FREEMAN: 17 Q. Mr. Ingram, is this the current absentee 18 ballot by mail form? I will represent to you this 19 form, I don't believe the date is on it, but it's the 20 form that's currently on your website and it's dated 21 December 9, 2021. 22 A. Yes. I mean it looks like it, yes. 23 Q. Okay. This form is still in effect, the 24 form that's on the website? 25 A. It is.</p>	<p style="text-align: right;">Page 41</p> <p>1 that emphasize that point. 2 Q. So is it not necessary to your mind? 3 A. Agree with that. 4 Q. This form does clarify that the Texas 5 driver's license number is not your voter registration 6 VUID number, correct? 7 A. Agree. 8 Q. Is that in the law -- 9 MS. HUNKER: Objection, form. 10 BY MR. FREEMAN: 11 Q. -- that clarification? 12 A. Well, it's in the law is Texas election 13 identification certificate number. People think that 14 means their voter registration number. 15 Q. Why is it permissible to include this 16 clarification and not the clarification that a voter 17 may include both numbers if they wish? 18 A. Because if we did that you would be sitting 19 there asking me questions about why we are requiring 20 people to do something the law doesn't require. That 21 would be a different lawsuit, but it would still be a 22 lawsuit. 23 Q. Do other forms promulgated by your office 24 include a red box around required information 25 frequently omitted by voters?</p>

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<p style="text-align: right;">Page 62</p> <p>1 provisions of SB 1?</p> <p>2 A. We try to say things in a more English and</p> <p>3 flowing manner.</p> <p>4 MR. FREEMAN: I think it's a good time to take a</p> <p>5 quick break.</p> <p>6 (WHEREUPON, a recess was had.)</p> <p>7 BY MR. FREEMAN:</p> <p>8 Q. Mr. Ingram, since the May 2022 runoff, did</p> <p>9 The Office of the Secretary of State make any changes</p> <p>10 to the FPCA signature sheet?</p> <p>11 A. Yes.</p> <p>12 MR. FREEMAN: Mark this as Exhibit 10.</p> <p>13 (WHEREUPON, a certain document was</p> <p>14 marked Deposition Exhibit No. 10,</p> <p>15 for identification, as of 3/28/23.)</p> <p>16 BY MR. FREEMAN:</p> <p>17 Q. Mr. Ingram, what's this document?</p> <p>18 A. This is the signature sheet for voters from</p> <p>19 overseas or military who's domestic or oversees.</p> <p>20 Q. Is this the up-to-date version of that</p> <p>21 form?</p> <p>22 A. It is.</p> <p>23 Q. What changes were made during the general</p> <p>24 election period?</p> <p>25 A. The oath language was changed.</p>	<p style="text-align: right;">Page 64</p> <p>1 associated with the voter registration record?</p> <p>2 A. I don't know.</p> <p>3 Q. Are you aware of how many active duty</p> <p>4 members of the military had their ballots rejected</p> <p>5 during the 2022 general because of SB 1 number</p> <p>6 requirements?</p> <p>7 A. I don't know.</p> <p>8 Q. Do you have any practical basis to believe</p> <p>9 that any rejected ballots submitted by FPCA voters were</p> <p>10 not returned by eligible Texas voters who were who they</p> <p>11 said they were?</p> <p>12 MS. HUNKER: Objection, form.</p> <p>13 BY THE WITNESS:</p> <p>14 A. I'm sorry. I don't understand the</p> <p>15 question.</p> <p>16 BY MR. FREEMAN:</p> <p>17 Q. Do you have any reason to believe that any</p> <p>18 FPCA voters -- strike that.</p> <p>19 Do you have any reason to believe that any</p> <p>20 FPCA ballots that were rejected due to SB 1 were</p> <p>21 submitted by individuals who were not eligible Texas</p> <p>22 voters?</p> <p>23 MS. HUNKER: Objection, form.</p> <p>24 BY THE WITNESS:</p> <p>25 A. I don't know.</p>
<p style="text-align: right;">Page 63</p> <p>1 Q. That's all?</p> <p>2 A. That's it.</p> <p>3 Q. Did you or your staff consider any further</p> <p>4 changes to the FPCA signature sheet during the general</p> <p>5 election period?</p> <p>6 A. We did not.</p> <p>7 Q. Why not?</p> <p>8 A. There was no need.</p> <p>9 Q. Is there a statutory reason, just to</p> <p>10 confirm, that the FPCA signature sheet could not inform</p> <p>11 military overseas voters that they may provide both a</p> <p>12 Texas driver's license number and a four digit Social?</p> <p>13 A. That's not required by the law.</p> <p>14 Q. Just to close the loop, if it's not</p> <p>15 required by the law it can't be on this form, correct?</p> <p>16 MS. HUNKER: Objection, form.</p> <p>17 BY THE WITNESS:</p> <p>18 A. The form is a map to the law.</p> <p>19 BY MR. FREEMAN:</p> <p>20 Q. Any current plans to alter the signature</p> <p>21 sheet?</p> <p>22 A. No.</p> <p>23 Q. Are you aware of how many FPCA voters had</p> <p>24 their ballot rejected during the 2022 general election</p> <p>25 because of SB 1 requirements related to numbers</p>	<p style="text-align: right;">Page 65</p> <p>1 BY MR. FREEMAN:</p> <p>2 Q. Do you have any future plans to address</p> <p>3 ballot rejections among active duty military</p> <p>4 specifically?</p> <p>5 A. Not other than, you know, the what we are</p> <p>6 going to do with ballot boards, educate them on the</p> <p>7 early voting process and their opportunities there.</p> <p>8 Q. My colleague intends to address training</p> <p>9 conducted by The Office of the Secretary of State</p> <p>10 during Rule 30(b)(6) deposition, but I have a few quick</p> <p>11 questions about updates to the training prior to the</p> <p>12 end of last year. So if we could mark this document as</p> <p>13 Exhibit 11 I promise we will only talk about a few</p> <p>14 pages.</p> <p>15 (WHEREUPON, a certain document was</p> <p>16 marked Deposition Exhibit No. 11,</p> <p>17 for identification, as of 3/28/23.)</p> <p>18 BY MR. FREEMAN:</p> <p>19 Q. Mr. Ingram, what's this document?</p> <p>20 A. It appears to be a presentation on ballot</p> <p>21 by mail.</p> <p>22 Q. Is this the most recent presentation on</p> <p>23 ballot by mail that your office has provided?</p> <p>24 A. I believe so. I mean what I find on those</p> <p>25 power points is the date that it's printed is the date</p>

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<p style="text-align: right;">Page 66</p> <p>1 that shows up on here. So it's not really a very</p> <p>2 useful guide. But as far as I know, we didn't change</p> <p>3 our guidance or instructions in our presentations</p> <p>4 throughout the '22 year.</p> <p>5 Q. It's from the election law seminar. Do you</p> <p>6 know when that was held?</p> <p>7 A. I don't. It was in July or August.</p> <p>8 Q. Okay. Did you participate in the drafting</p> <p>9 of this document?</p> <p>10 A. I did review it, yes.</p> <p>11 Q. So others drafted, but you reviewed after</p> <p>12 it had been drafted; would that be right?</p> <p>13 A. That's correct.</p> <p>14 Q. Did you give the training based on this</p> <p>15 document?</p> <p>16 A. No, sir.</p> <p>17 Q. Who did?</p> <p>18 A. I don't remember, maybe Heidi Martinez.</p> <p>19 Q. Who is Ms. Martinez?</p> <p>20 A. She is one of our staff attorneys.</p> <p>21 Q. Does this presentation -- are you aware of</p> <p>22 whether this presentation instructed local clerks to</p> <p>23 inform voters upon request whether they had a driver's</p> <p>24 license or SSN on file?</p> <p>25 A. As I stated before, we don't have to tell</p>	<p style="text-align: right;">Page 68</p> <p>1 how they should look up the voter registration status</p> <p>2 of an applicant?</p> <p>3 A. No.</p> <p>4 Q. Do you have an understanding of how they</p> <p>5 typically go about doing that?</p> <p>6 A. They either use TEAM or they use their</p> <p>7 local system. And some off-line counties use TEAM for</p> <p>8 this.</p> <p>9 Q. What information do they plug in when they</p> <p>10 are trying to pull up the registration status like</p> <p>11 name?</p> <p>12 A. Well, I mean if you're using TEAM you can</p> <p>13 search by voter name. That's probably the way they do</p> <p>14 it. They are limited to their county.</p> <p>15 Q. If we turn to page 32. What are the</p> <p>16 matters set out here?</p> <p>17 A. This talks about the new law.</p> <p>18 Q. This is talking about looking up</p> <p>19 identification numbers; is that correct?</p> <p>20 A. That's correct.</p> <p>21 Q. That is separate from looking up</p> <p>22 registration status?</p> <p>23 A. It's part of the registration status.</p> <p>24 Q. But it's --</p> <p>25 A. That's what it says at the last sentence</p>
<p style="text-align: right;">Page 67</p> <p>1 them to do that. That's something they do, they answer</p> <p>2 voter's questions.</p> <p>3 Q. Just to be clear, they -- you don't train</p> <p>4 them to do that, that's just something you expect them</p> <p>5 to do?</p> <p>6 MS. HUNKER: Objection, form.</p> <p>7 BY THE WITNESS:</p> <p>8 A. I expect county election officials to</p> <p>9 answer voter questions, yes, I do.</p> <p>10 BY MR. FREEMAN:</p> <p>11 Q. Including that question?</p> <p>12 A. Yes, including that question very much so.</p> <p>13 Q. Turning to page 31. What are the matters</p> <p>14 set on page 31?</p> <p>15 A. The best practices when reviewing an</p> <p>16 application for ballot by mail.</p> <p>17 Q. So this is the review conducted by the</p> <p>18 early voting clerk?</p> <p>19 A. Early voting clerk is the one who reviews</p> <p>20 applications for ballot by mail, yes.</p> <p>21 Q. The early voting clerk has to look up the</p> <p>22 registration status of the voter as part of that</p> <p>23 process?</p> <p>24 A. That's correct.</p> <p>25 Q. And do you suggest as part of that training</p>	<p style="text-align: right;">Page 69</p> <p>1 you talk to the voter registrar to confirm the voter</p> <p>2 registration and status.</p> <p>3 Q. But am I correct that the numbers provided</p> <p>4 here, driver's license, Social Security number, they</p> <p>5 are not used to look up the voter, they are used to</p> <p>6 confirm the voter; is that correct?</p> <p>7 A. They are used to make sure the voter has</p> <p>8 properly identified themselves on the application, yes.</p> <p>9 Q. Those numbers are not used to find the</p> <p>10 voter in TEAM as part of the ABBM processing, correct?</p> <p>11 A. No, sir. I mean not usually. I guess they</p> <p>12 could look it up by DL number if they wanted to.</p> <p>13 Q. Do you have any understanding as to</p> <p>14 whether -- strike that.</p> <p>15 Do you instruct local officials to do that?</p> <p>16 MS. HUNKER: Objection, form.</p> <p>17 BY THE WITNESS:</p> <p>18 A. We don't tell them how they use TEAM. All</p> <p>19 of the fields are available to look up anything they</p> <p>20 want to look up.</p> <p>21 BY MR. FREEMAN:</p> <p>22 Q. Are you aware of any local officials using</p> <p>23 the Texas driver's license number or Social Security</p> <p>24 number to look up a voter as part of the initial</p> <p>25 determination of their registration status?</p>

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<p style="text-align: right;">Page 98</p> <p>1 through Texas.gov.</p> <p>2 Q. Is this the page that voters would use to</p> <p>3 update their Texas driver's license number or Social</p> <p>4 Security number on their voter file?</p> <p>5 A. If they wanted to add to voter file this</p> <p>6 was the one that replaces zero, no value with a number.</p> <p>7 Q. Is there any indication on this website</p> <p>8 that this is the page that can be used to update Texas</p> <p>9 driver's license number or Social Security number on</p> <p>10 voter registration record?</p> <p>11 A. No. But if you fill this out, the next</p> <p>12 page in says, "If your purpose is to update your voter</p> <p>13 record with your numbers you have done it so log out.</p> <p>14 You are finished."</p> <p>15 Q. Okay. In some are there any instructions</p> <p>16 prior --</p> <p>17 A. Act of logging in supplies no values.</p> <p>18 Q. Understood. In some are there any</p> <p>19 instructions on Texas.gov prior to logging in that this</p> <p>20 site may be used to add a Texas driver's license number</p> <p>21 or Social Security number to voter registration</p> <p>22 records?</p> <p>23 A. I don't think so.</p> <p>24 Q. We previously discussed a number of ways</p> <p>25 voters can add or correct identification numbers on a</p>	<p style="text-align: right;">Page 100</p> <p>1 BY MR. FREEMAN:</p> <p>2 Q. The ballot tracker is only accessible to</p> <p>3 voters who have both a Texas driver's license number</p> <p>4 and a Social Security number on their TEAM file,</p> <p>5 correct?</p> <p>6 A. Right.</p> <p>7 Q. As of right now?</p> <p>8 A. That's correct. Which is over 96 percent</p> <p>9 of voters.</p> <p>10 Q. Mr. Ingram, do you recall when we met back</p> <p>11 in April of 2022 that we discussed whether a single</p> <p>12 voter could be issued more than one DPS number?</p> <p>13 A. Yes.</p> <p>14 Q. Do you recall whether you knew at the time</p> <p>15 whether DPS had in fact issued multiple numbers to</p> <p>16 particular individuals over the course of their</p> <p>17 lifetime?</p> <p>18 A. If I didn't say that's a DPS question I am</p> <p>19 saying it now, it's a DPS question.</p> <p>20 Q. Do you know whether DPS has done that in</p> <p>21 the past?</p> <p>22 A. To my knowledge, you get one number.</p> <p>23 Q. I have some document I'm hoping can clear</p> <p>24 this up. We can mark this as Exhibit 19.</p> <p>25 (WHEREUPON, a certain document was</p>
<p style="text-align: right;">Page 99</p> <p>1 ballot envelope or FCPA signature sheet. Is there any</p> <p>2 change in those procedures since May of 2022?</p> <p>3 A. There is not.</p> <p>4 Q. So I'm clear, a voter can correct on the</p> <p>5 envelope or signature sheet and send it back, they can</p> <p>6 hand return the envelope or they can cancel the mail</p> <p>7 ballot and vote in person; is that right?</p> <p>8 A. Those are some of the options.</p> <p>9 Q. What are the other options?</p> <p>10 A. They can correct the ballot tracker and add</p> <p>11 numbers to Texas.gov.</p> <p>12 Q. But if a mail ballot has been sent back to</p> <p>13 them, they have to physically return the ballot; is</p> <p>14 that right?</p> <p>15 A. They have to physically return a ballot,</p> <p>16 yes.</p> <p>17 Q. They can only correct on the ballot tracker</p> <p>18 if the early voting ballot board has retained the</p> <p>19 ballot; is that right?</p> <p>20 MS. HUNKER: Objection, form.</p> <p>21 BY THE WITNESS:</p> <p>22 A. Well, if they've got the ballot they've got</p> <p>23 to get it back, but they can also correct the</p> <p>24 information on the ballot tracker. Those are not</p> <p>25 mutually exclusive.</p>	<p style="text-align: right;">Page 101</p> <p>1 marked Deposition Exhibit No. 20,</p> <p>2 for identification, as of 3/28/23.)</p> <p>3 MR. FREEMAN: This is 20.</p> <p>4 BY MR. FREEMAN:</p> <p>5 Q. What's this document?</p> <p>6 A. It appears to be an email exchange with</p> <p>7 Mr. or Mrs. Mickey Marvin's and our office.</p> <p>8 Q. If you go to the original email on page 3</p> <p>9 what's the problem that Ms. Marvin's describes.</p> <p>10 A. That she got an ID to replace her driver's</p> <p>11 license, and the ID number wasn't in her voter record.</p> <p>12 Q. As a result, her friend who had this</p> <p>13 experience had a problem getting an absentee ballot</p> <p>14 because the number on her DPS identification was</p> <p>15 different when she went from a driver's license to an</p> <p>16 ID card; is that right?</p> <p>17 A. Agree with that. Just in case you are</p> <p>18 wondering, that's not inconsistent with what I said.</p> <p>19 You get one number. You surrender your DL and you get</p> <p>20 the ID number. I don't want you under the impression</p> <p>21 you got two numbers. You got one number. It just</p> <p>22 changed.</p> <p>23 Q. I see. Okay. Bit of a clarification.</p> <p>24 A. I want to make sure we are clear.</p> <p>25 Q. Over the course of a lifetime, is what I</p>

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<p style="text-align: right;">Page 102</p> <p>1 asked before, a voter can be issued more than one ID 2 number by DPS; is that correct? 3 A. If you change from one form of ID to 4 another then yes. 5 Q. When did you first become aware of that 6 fact? 7 A. I have always known that. I don't know -- 8 it's not a strange or unusual piece of information. I 9 went to Arkansas, I had to surrender my driver's 10 license. I came back, I had to surrender my Arkansas 11 license. 12 Q. Am I correct that SB 1 permits voters to 13 submit a driver's license number that is expired, 14 correct? 15 A. That's correct. 16 Q. Even if I have surrendered my driver's 17 license number, if that's the number -- if I have 18 surrendered my driver's license and gotten an ID, if my 19 driver's license is still on file with TEAM, I can vote 20 using the number on my driver's license; is that right? 21 A. You can for up to four years for a person 22 under 70. Then for a person over 70 it can be expired 23 for however long you need it. 24 Q. Are you sure that's the rule for SB 1 and 25 not for the voter ID?</p>	<p style="text-align: right;">Page 104</p> <p>1 misunderstand and think that's what they have to 2 submit. Has your office done anything to address that 3 specific scenario? 4 A. You would have to talk to Sam about our 5 education campaign. But, you know, what we tell voters 6 if they call our office is that they need to use 7 whatever is currently in their voter registration, and 8 that's why we encourage them to use both numbers so 9 that if one of them hits they are good. 10 Q. Is a voter able, to your knowledge, to call 11 their local clerk or election administrator and ask 12 specifically what number is on their registration 13 record? 14 A. Of course. 15 Q. So I could call and say what's the driver's 16 license on my registration record and then fill that in 17 on an ABBM? 18 A. Sure. 19 MS. HUNKER: Objection, form. 20 BY THE WITNESS: 21 A. It would go through some questions to 22 validate that it's you and not some vote harvester 23 trying to steal your vote, but yes. 24 BY MR. FREEMAN: 25 Q. What questions would they use?</p>
<p style="text-align: right;">Page 103</p> <p>1 A. It's the same. It incorporates 63101 into 2 mail ballots. 3 Q. In any case, has your office taken any 4 actions to address issues created by voters who have 5 and hold DPS ID number on file and who have received a 6 new DPS ID number on a new form of ID? 7 A. That's voter responsibility to update their 8 information in TEAM. And they can do that very 9 conveniently, they are at DPS, say, "Use this 10 information to update my voter record." They just have 11 to check yes on a box. 12 MR. FREEMAN: Off the record for a moment. 13 (WHEREUPON, a discussion was had 14 off the record.) 15 BY MR. FREEMAN: 16 Q. Has your office done anything to address 17 the issue of voters who submit the number of old 18 identification that's no longer the number on TEAM, but 19 remains valid for SB 1 purposes? 20 A. I don't know what that question means. 21 Q. Sure. Let's say a voter had a driver's 22 license, surrenders it, gets an ID card and does update 23 TEAM with the ID card number -- thumbs up from the 24 witness -- but then they submit their old driver's 25 license number because they are concerned or</p>	<p style="text-align: right;">Page 105</p> <p>1 A. I don't know. Whatever the county uses 2 whenever they validate someone's identity on the phone. 3 Q. Any information that isn't also on the 4 ABBM? 5 A. Well, it's information that would be in 6 their voter record. 7 Q. But it's information that was on the 8 application prior to SB 1, right, name, date of birth, 9 address, things like that, correct? 10 A. That's correct. 11 Q. In theory if a voter -- strike that. 12 So if an individual wanted to cast an ABBM 13 in someone else's name, the only security addition 14 created by SB 1 is the driver's license number or a 15 Social Security number, correct? 16 MS. HUNKER: Objection, form. 17 BY THE WITNESS: 18 A. Well, I mean signature still counts. 19 BY MR. FREEMAN: 20 Q. Sure. That was pre -- signature counted 21 pre-SB 1, right? 22 A. Agreed. 23 Q. In fact, it's easier to meet the signature 24 requirement after SB 1? 25 A. Agreed.</p>

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<p style="text-align: right;">Page 106</p> <p>1 Q. All the voter needs to do to get that</p> <p>2 driver's license number is to call the clerk with</p> <p>3 pre-SB 1 information and ask for which driver's license</p> <p>4 number is on file, no?</p> <p>5 MS. HUNKER: Objection, form.</p> <p>6 BY THE WITNESS:</p> <p>7 A. No.</p> <p>8 BY MR. FREEMAN:</p> <p>9 Q. Why not?</p> <p>10 A. Because they can call and ask, "What do I</p> <p>11 have on file?" They will say DL or SSN or both.</p> <p>12 Q. What if they say what number is on file?</p> <p>13 A. If the voter -- then I would imagine, I</p> <p>14 don't know because I'm not a county, but if I was a</p> <p>15 county voter registrar I would say, "What driver's</p> <p>16 license number -- what's your driver's license number?"</p> <p>17 They would look and say, "Yup that's what you got."</p> <p>18 Q. Okay. Thank you for that clarification.</p> <p>19 How many DPS ID numbers can be associated</p> <p>20 with a voter's TEAM record?</p> <p>21 A. One.</p> <p>22 Q. Has there been any discussion, to your</p> <p>23 knowledge, of adding a field to TEAM so that additional</p> <p>24 driver's license numbers could be listed?</p> <p>25 A. That's something that we have recently</p>	<p style="text-align: right;">Page 108</p> <p>1 A. I'm not going to get into assignment of</p> <p>2 fault.</p> <p>3 BY MR. FREEMAN:</p> <p>4 Q. Do you know if the fact that DPS has issued</p> <p>5 multiple ID numbers to the same individuals over their</p> <p>6 lifetimes has led to the rejection of mail ballot</p> <p>7 materials under SB 1?</p> <p>8 MS. HUNKER: Objection, form.</p> <p>9 BY THE WITNESS:</p> <p>10 A. It's my understanding that's happened at</p> <p>11 least in Bexar County because I have a member of the</p> <p>12 ballot board who has been coming up here for the</p> <p>13 election meetings because of it.</p> <p>14 BY MR. FREEMAN:</p> <p>15 Q. Have you conducted any further inquiry into</p> <p>16 the extent to which such voters have had their mail</p> <p>17 ballot materials rejected?</p> <p>18 A. Just what she says.</p> <p>19 Q. Is there anything else that could have been</p> <p>20 done for voters who have multiple DPS ID numbers to</p> <p>21 ensure their ballots are counted?</p> <p>22 A. I don't know how to answer that question.</p> <p>23 Q. I don't run an elections office. I'm</p> <p>24 asking if you know of anything else that could have</p> <p>25 been done by your office to help those voters?</p>
<p style="text-align: right;">Page 107</p> <p>1 discussed to think about the next iteration of TEAM,</p> <p>2 and whether or not they want to have another field for</p> <p>3 an ID number. That decision has not been made yet.</p> <p>4 Q. What's the stage of the procurement process</p> <p>5 for the next iteration of TEAM at this point?</p> <p>6 A. We are going through the drafting of the</p> <p>7 RFP, RFO, whatever we are calling it.</p> <p>8 Q. Do you know when that will be complete?</p> <p>9 A. Soon. If I had my way it would have been</p> <p>10 two weeks ago.</p> <p>11 Q. To be clear, if a voter has been issued</p> <p>12 multiple DPS numbers and provides a DPS ID number</p> <p>13 different from the one listed in TEAM on an ABBM and</p> <p>14 does not also provide a Social Security number, that</p> <p>15 ABBM will be rejected, correct?</p> <p>16 A. If they don't provide a number that's in</p> <p>17 their voter registration record they will be rejected,</p> <p>18 yes, at least temporarily.</p> <p>19 Q. Same thing on mail ballot?</p> <p>20 A. Same thing on mail ballot.</p> <p>21 Q. Would you agree a duly registered voter</p> <p>22 whose ballot was rejected under these circumstances was</p> <p>23 not at fault?</p> <p>24 MS. HUNKER: Objection, form.</p> <p>25 BY THE WITNESS:</p>	<p style="text-align: right;">Page 109</p> <p>1 A. I don't know how to answer that question.</p> <p>2 Q. Okay. Is there anything else that the</p> <p>3 voter could have done if they have an old number on</p> <p>4 TEAM and submit number on their new ID card or vice</p> <p>5 versa?</p> <p>6 A. Well, the voter has the responsibility to</p> <p>7 make sure their information in the voter registration</p> <p>8 record is correct and accurate and updated. The voter</p> <p>9 bears that responsibility.</p> <p>10 Q. Do you know how many registered voters in</p> <p>11 Texas have been issued multiple numbers in their</p> <p>12 lifetimes?</p> <p>13 A. I do not.</p> <p>14 Q. Do you know how many ABBM or mail ballots</p> <p>15 have been rejected on account of the voters submitting</p> <p>16 a correct DPS ID number that was not listed on TEAM?</p> <p>17 A. I don't.</p> <p>18 Q. Have there been any actions taken by your</p> <p>19 office other than in-filling driver's license numbers</p> <p>20 as part of the HB2515 process to address the absence of</p> <p>21 driver's license numbers or up-to-date driver's license</p> <p>22 numbers on voter registration records?</p> <p>23 A. We have made sure we have got a pipeline</p> <p>24 from Texas.gov so that we can capture that log-in</p> <p>25 information whenever someone logs in to fill in the</p>

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<p style="text-align: right;">Page 110</p> <p>1 values for us.</p> <p>2 Q. Anything else?</p> <p>3 A. That's not an unsubstantial thing.</p> <p>4 Q. Understood. Is there anything else so I</p> <p>5 have your full testimony?</p> <p>6 A. I mean we have told the voters they need to</p> <p>7 use both. We told voters the way they can add numbers</p> <p>8 if they want to add numbers.</p> <p>9 Q. Anything else?</p> <p>10 A. That's it, I think.</p> <p>11 MS. HUNKER: I know we took a short break before,</p> <p>12 but sort of a good place to take five if that's all</p> <p>13 right?</p> <p>14 MS. HUNKER: Yes.</p> <p>15 (WHEREUPON, a recess was had.)</p> <p>16 MR. FREEMAN: Back on the record.</p> <p>17 BY MR. FREEMAN:</p> <p>18 Q. Mr. Ingram, to the extent you know, what</p> <p>19 was the final mail ballot rejection rate in the 2022</p> <p>20 primarily?</p> <p>21 A. You know, it's obviously two different</p> <p>22 primaries, and there were different -- democrats were</p> <p>23 higher than the republicans, but I believe the</p> <p>24 composite rate was under 13 percent, under 12.8, 12.7,</p> <p>25 something like that.</p>	<p style="text-align: right;">Page 112</p> <p>1 of mail ballot impersonation in Texas elections before</p> <p>2 passage of SB 1?</p> <p>3 MS. HUNKER: Objection, form.</p> <p>4 BY THE WITNESS:</p> <p>5 A. I have no idea what the rate of mail ballot</p> <p>6 impersonation is or ever has been.</p> <p>7 BY MR. FREEMAN:</p> <p>8 Q. After serving for over a decade as the</p> <p>9 director of elections for the State of Texas, do you</p> <p>10 know whether or not 2.7 percent of mail ballots cast in</p> <p>11 elections pre-SB 1 were actually cast by individuals</p> <p>12 other than the registered voter on whose behalf the</p> <p>13 ballots were cast?</p> <p>14 MS. HUNKER: Objection, form.</p> <p>15 BY THE WITNESS:</p> <p>16 A. The rejection rate of 1 to 3 percent is</p> <p>17 historically what it's always been. So we are back in</p> <p>18 the zone. One of the reasons for rejection is that the</p> <p>19 mail ballot was not signed by the voter. It was signed</p> <p>20 by somebody other than the voter. The voter was not</p> <p>21 the one who signed the carrier and the application.</p> <p>22 BY MR. FREEMAN:</p> <p>23 Q. So that wasn't the answer to my question.</p> <p>24 My question was, to your knowledge, were 2.7 percent or</p> <p>25 more of mail ballots cast in any statewide election in</p>
<p style="text-align: right;">Page 111</p> <p>1 Q. Do you know what the rate in the democratic</p> <p>2 primary was?</p> <p>3 A. No. I think it was a little over 13 maybe.</p> <p>4 Q. It's not a quiz. It's all right.</p> <p>5 A. We can look it up.</p> <p>6 Q. So the republican rate was a little bit</p> <p>7 lower than that?</p> <p>8 A. It was a little under 12.</p> <p>9 Q. In the primary runoff, do you know what the</p> <p>10 aggregate rate was?</p> <p>11 A. Right at 12 percent.</p> <p>12 Q. The democratic runoff, do you know what the</p> <p>13 rate was then?</p> <p>14 A. I don't.</p> <p>15 Q. Was the democratic rate higher than the</p> <p>16 republican rate in the primary runoff as well?</p> <p>17 A. I think in the runoff it went the other</p> <p>18 way. I just have to go look and make sure, but it was</p> <p>19 close.</p> <p>20 Q. Then we already discussed, but just so we</p> <p>21 have it here, what was the final rejection rate in the</p> <p>22 2022 general election?</p> <p>23 A. 2.7 percent.</p> <p>24 Q. Based on your knowledge and experience, how</p> <p>25 do these figures compare, 2.7 for 13 or so to the rate</p>	<p style="text-align: right;">Page 113</p> <p>1 Texas fraudulent because they were cast by someone</p> <p>2 else?</p> <p>3 MS. HUNKER: Objection, form.</p> <p>4 BY THE WITNESS:</p> <p>5 A. Again, I don't know how many were</p> <p>6 fraudulent because they were cast by somebody else. I</p> <p>7 know ballot boards reject mail ballots because the</p> <p>8 voter was not the one who signed them.</p> <p>9 BY MR. FREEMAN:</p> <p>10 Q. Do you have any basis to believe based on</p> <p>11 your knowledge and experience that over 2 percent of</p> <p>12 mail ballots in any statewide election were cast by</p> <p>13 someone other than the voter in whose name the ballot</p> <p>14 was cast?</p> <p>15 A. Again, I don't know the answer to that</p> <p>16 question. The answer I have got is rejection, and</p> <p>17 rejection because they're not the same person is the</p> <p>18 most common rejection reason.</p> <p>19 Q. Because they are not the same person or</p> <p>20 because they didn't sign?</p> <p>21 A. Because they are not the voter. The</p> <p>22 signatures don't match.</p> <p>23 Q. When a signature doesn't match -- strike</p> <p>24 that.</p> <p>25 If an election administrator or ballot</p>

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<p style="text-align: right;">Page 126</p> <p>1 Q. Okay. How often in the past did you</p> <p>2 provide templates for op-eds?</p> <p>3 A. I don't know. Several times. It's -- what</p> <p>4 we have done them for is the ID requirements. The ID</p> <p>5 requirements when they changed for photo ID, and they</p> <p>6 changed again in 2017 --</p> <p>7 Q. So --</p> <p>8 A. -- or 2016.</p> <p>9 Q. -- for SB 14 the voter ID law, the change</p> <p>10 to voter ID law, and SB 1, those are the three times</p> <p>11 you can recall?</p> <p>12 A. That we have tried to use this form of</p> <p>13 communication to get the counties to propagate</p> <p>14 something, yes. I mean we offer templates to the</p> <p>15 counties for everything every year, every election</p> <p>16 year, but the ones that we specifically drafted, you</p> <p>17 know, for part of voter education were usually ID</p> <p>18 related.</p> <p>19 Q. Do you know whether any other election</p> <p>20 administrators or officials were able to place op-eds</p> <p>21 about these requirements after this email went out?</p> <p>22 A. I don't know.</p> <p>23 Q. So you can't -- can you identify any other</p> <p>24 counties that did manage to place op-eds?</p> <p>25 A. I don't know.</p>	<p style="text-align: right;">Page 128</p> <p>1 education?</p> <p>2 A. I don't know. I mean I think as voters</p> <p>3 talk amongst themselves it's going to get better, yes.</p> <p>4 I don't know if it's substantial. You say substantial</p> <p>5 reductions. I don't know about that.</p> <p>6 Q. Does your office have plans to reach</p> <p>7 different voters from those reached previously by voter</p> <p>8 education efforts on SB 1?</p> <p>9 MS. HUNKER: Objection, form.</p> <p>10 BY THE WITNESS:</p> <p>11 A. That again is going to be part of the</p> <p>12 request for proposal. Depends on how much money the</p> <p>13 legislature gives us.</p> <p>14 BY MR. FREEMAN:</p> <p>15 Q. Do you have any knowledge of targeted plans</p> <p>16 to reach voters who didn't understand prior voter</p> <p>17 registration efforts?</p> <p>18 A. No. I mean part of every education</p> <p>19 campaign is the feedback loop. And, you know,</p> <p>20 determination of what can be done better next time.</p> <p>21 But again, that's all done by the communications team</p> <p>22 and the vendor.</p> <p>23 Q. Going back to Exhibit 21. Did Mr. Taylor</p> <p>24 attribute the decrease in voters -- strike that.</p> <p>25 Did Mr. Taylor attribute the decrease in</p>
<p style="text-align: right;">Page 127</p> <p>1 Q. Do you intend to submit templates or</p> <p>2 examples to county officials about SB 1 ID requirements</p> <p>3 again in the future?</p> <p>4 A. Sure.</p> <p>5 Q. Do you expect newspapers to be receptive to</p> <p>6 op-eds when the requirements are no longer new?</p> <p>7 A. It's not just the op-eds. It's also</p> <p>8 talking to them about how to approach their local news</p> <p>9 media and getting a story placed. It's also handouts</p> <p>10 and colorful material they can use to give to the</p> <p>11 voters. So it's a full fledged campaign that Sam would</p> <p>12 know more about than I do.</p> <p>13 Q. Do you expect newspapers to be as receptive</p> <p>14 to similar op-eds in the future when the requirements</p> <p>15 are no longer new?</p> <p>16 MS. HUNKER: Objection, form.</p> <p>17 BY THE WITNESS:</p> <p>18 A. Sure.</p> <p>19 BY MR. FREEMAN:</p> <p>20 Q. Why is that?</p> <p>21 A. Because they are always hungry for content.</p> <p>22 Local news needs content. This is good content for</p> <p>23 them. They like it.</p> <p>24 Q. Do you expect substantial further</p> <p>25 reductions in mail ballot rejections due to voter</p>	<p style="text-align: right;">Page 129</p> <p>1 mail ballot rejection rates to voters getting used to</p> <p>2 SB 1 requirements?</p> <p>3 A. Yes.</p> <p>4 Q. Do you agree --</p> <p>5 A. He said that, you know, one of the things</p> <p>6 we have always expected was that the voters would get</p> <p>7 used to it.</p> <p>8 Q. Do you agree?</p> <p>9 A. Absolutely.</p> <p>10 Q. If a voter had their ballot rejected, they</p> <p>11 failed to cure, correct?</p> <p>12 A. If it's finally rejected, yes.</p> <p>13 Q. So the cure process affords a voter an</p> <p>14 additional opportunity code to comply with SB 1</p> <p>15 requirements during a single election; is that right?</p> <p>16 MS. HUNKER: Objection, form.</p> <p>17 BY THE WITNESS:</p> <p>18 A. If that was the reason for the initial</p> <p>19 rejection or notice of defect.</p> <p>20 BY MR. FREEMAN:</p> <p>21 Q. Would you agree then that even when</p> <p>22 presented with multiple opportunities to comply with SB</p> <p>23 1, each final rejection represents a voter who failed</p> <p>24 to learn and comply even with multiple opportunities?</p> <p>25 MS. HUNKER: Objection, form.</p>

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<p style="text-align: right;">Page 130</p> <p>1 BY THE WITNESS:</p> <p>2 A. Sometimes the clock runs out on folks.</p> <p>3 But, you know, I don't know what you are trying to get</p> <p>4 at. But you are assuming that the rejections were all</p> <p>5 because of SB 1. That's not a safe assumption. There</p> <p>6 are lots of reasons why mail ballots get rejected. If</p> <p>7 you want to know the list, you should go to a county</p> <p>8 and ask them.</p> <p>9 BY MR. FREEMAN:</p> <p>10 Q. Let's just bracket to SB 1 rejections. And</p> <p>11 say with respect to SB 1 rejections, because of the</p> <p>12 cure opportunity, everyone has multiple chances to get</p> <p>13 down their voter information, right, their ID numbers?</p> <p>14 A. I don't necessarily agree with that because</p> <p>15 again the clock runs out.</p> <p>16 Q. But prior to the clock running out, there</p> <p>17 is supposed to be an opportunity to cure, correct?</p> <p>18 A. If they got notice before the clock ran</p> <p>19 out.</p> <p>20 Q. Some voters get notice after the clock runs</p> <p>21 out?</p> <p>22 A. That's right.</p> <p>23 Q. With respect to the voters who did get</p> <p>24 notice before the clock ran out, many of them had a</p> <p>25 second opportunity, and nonetheless failed to get the</p>	<p style="text-align: right;">Page 132</p> <p>1 rejection rates between the March primary and November</p> <p>2 general?</p> <p>3 A. Yes.</p> <p>4 Q. What's the county election seminar?</p> <p>5 A. That's a seminar that we do every year for</p> <p>6 county election officials to teach them about election</p> <p>7 law requirements and how to implement them in their</p> <p>8 county.</p> <p>9 Q. When was the county election seminar in</p> <p>10 2021?</p> <p>11 A. I don't remember.</p> <p>12 Q. Was it before --</p> <p>13 A. July or August.</p> <p>14 Q. So before SB 1 was passed?</p> <p>15 A. In '21, yes.</p> <p>16 Q. When was the seminar in '22?</p> <p>17 A. July or August.</p> <p>18 Q. After the March primary, before the</p> <p>19 November general, correct?</p> <p>20 A. Agree with that.</p> <p>21 Q. So based on your experience as director of</p> <p>22 elections, during the 2022 election cycle do you do</p> <p>23 most -- sorry. Did most county election officials</p> <p>24 understand the SB 1 acceptance and cure process during</p> <p>25 the November 2022 general?</p>
<p style="text-align: right;">Page 131</p> <p>1 information required by SB 1 on to their ballot,</p> <p>2 correct?</p> <p>3 A. Maybe. Maybe they decided not to. Maybe</p> <p>4 they decided to cancel their mail ballot and vote in</p> <p>5 person. You know, I don't know what happened with</p> <p>6 those.</p> <p>7 Q. In light of the cure opportunity, why do</p> <p>8 you expect that yet more exposure to the SB 1</p> <p>9 requirements would continue to drive down rejection</p> <p>10 rates?</p> <p>11 A. Because as people learn about something and</p> <p>12 talk about it amongst themselves they get better at it.</p> <p>13 It's just a fact.</p> <p>14 Q. In each new election cycle, do a new batch</p> <p>15 of voters turn 65?</p> <p>16 A. We have talked about that before.</p> <p>17 Q. We have. They won't have to get used to SB</p> <p>18 1 mail ballot requirements?</p> <p>19 MS. HUNKER: Objection, form.</p> <p>20 BY THE WITNESS:</p> <p>21 A. No. But they would have heard about it</p> <p>22 from their peers.</p> <p>23 BY MR. FREEMAN:</p> <p>24 Q. Have additional trainings of state and</p> <p>25 local election officials helped to reduce ballot</p>	<p style="text-align: right;">Page 133</p> <p>1 A. I don't know. That's a hard question. I</p> <p>2 don't know what they hear. I only know what we say.</p> <p>3 We had an election official email us a question in</p> <p>4 2017, 2017, four years after photo ID requirements were</p> <p>5 in place, asking if photo ID was required for voting.</p> <p>6 Q. That was after there had been --</p> <p>7 A. No.</p> <p>8 Q. -- a decision by the Federal court saying</p> <p>9 that the original law violated the Voting Rights Act,</p> <p>10 right?</p> <p>11 A. She was asking if photo ID was required at</p> <p>12 all. She didn't have any clue. She had been in office</p> <p>13 the whole four years. She had been to our seminars,</p> <p>14 read our materials, I presume. I don't know. But I'm</p> <p>15 saying I don't have any control at all over what the</p> <p>16 counties hear and how they interpret it.</p> <p>17 Q. Are you aware of any ballot rejection in</p> <p>18 the November general that resulted from misapplication</p> <p>19 of SB 1 by local officials?</p> <p>20 A. Any what?</p> <p>21 Q. Ballot rejections, mail ballot rejections</p> <p>22 in November that resulted -- that were the result of</p> <p>23 misapplication of SB 1 by local officials?</p> <p>24 A. I think we have talked about the</p> <p>25 misapplication of the signature requirement after the</p>

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<p style="text-align: right;">Page 134</p> <p>1 introduction of rebuttal presumption.</p> <p>2 Q. I mean the rejection of mail ballots based</p> <p>3 on the driver's license or Social Security number</p> <p>4 requirements?</p> <p>5 A. I don't know how you can separate the two.</p> <p>6 The driver's license and Social Security number being</p> <p>7 in the voter's record is supposed to create a</p> <p>8 rebuttable presumption that the signatures are of the</p> <p>9 voter. So that signature comparison requirement, that</p> <p>10 the degree of scrutiny that's applied to the signatures</p> <p>11 part and parcel of SB 1 requirements. If the</p> <p>12 signatures were overanalyzed even though the number</p> <p>13 already matched the number in their system, then that</p> <p>14 results in a rejection because of a mistake by the</p> <p>15 ballot board.</p> <p>16 Q. Okay. Are you aware of any rejections of</p> <p>17 ballots for failure to put a driver's license number,</p> <p>18 Social Security number on the carrier envelope that</p> <p>19 matches TEAM where the rejection was a result of</p> <p>20 misapplication of SB 1 by local officials?</p> <p>21 A. So a voter puts a number on the envelope,</p> <p>22 that number is in their TEAM record, and they still</p> <p>23 rejected it --</p> <p>24 Q. Any rejection --</p> <p>25 A. -- because of that?</p>	<p style="text-align: right;">Page 136</p> <p>1 BY MR. FREEMAN:</p> <p>2 Q. Are you aware of any instances where the</p> <p>3 official rejected a mail ballot where a voter had put</p> <p>4 down their SSN, and had a driver's license number, and</p> <p>5 SSN on TEAM and they applied the hierarchy, for</p> <p>6 example, and shouldn't have, would that be an error by</p> <p>7 a local official in applying SB 1 to the numbers?</p> <p>8 MS. HUNKER: Objection, form.</p> <p>9 BY THE WITNESS:</p> <p>10 A. I'm not aware of anything like that</p> <p>11 happening. What we've told them is if the number that</p> <p>12 the voter puts is in the record, they are supposed to</p> <p>13 accept it. I'm not aware of any county rejecting it</p> <p>14 with a number in the record. That would be crazy.</p> <p>15 BY MR. FREEMAN:</p> <p>16 Q. Good. Are you aware of any other similar</p> <p>17 types of errors by local officials where they rejected</p> <p>18 a ballot and they shouldn't have in relation to the</p> <p>19 numbers themselves?</p> <p>20 A. No.</p> <p>21 Q. Okay. Would you agree then you don't</p> <p>22 expect any substantial further rejection or further</p> <p>23 reductions in mail ballot rejections based on the</p> <p>24 numbers alone from training of local officials --</p> <p>25 MS. HUNKER: Objection, form.</p>
<p style="text-align: right;">Page 135</p> <p>1 Q. Are you aware of any rejection of a mail</p> <p>2 ballot based on the number requirements because of some</p> <p>3 kind of error by a local official?</p> <p>4 MS. HUNKER: Objection, form.</p> <p>5 BY THE WITNESS:</p> <p>6 A. I have already told you what I know about</p> <p>7 rebuttable presumption not being evenly applied.</p> <p>8 BY MR. FREEMAN:</p> <p>9 Q. Separate from the rebuttable presumption,</p> <p>10 just the number requirements?</p> <p>11 A. I don't even know how that would be. I</p> <p>12 don't know what you are talking about.</p> <p>13 Q. Okay. Let's try and ask in a way that</p> <p>14 works for you then.</p> <p>15 Just a yes/no requirement, you have to have</p> <p>16 a number that matches TEAM, driver's license number,</p> <p>17 Social Security number, that requirement standing</p> <p>18 alone, that sort of bar to acceptance, are you aware of</p> <p>19 any rejection based on that bar to acceptance the</p> <p>20 ballot where the rejection was a result of a</p> <p>21 misapplication of SB 1 by local officials?</p> <p>22 MS. HUNKER: Objection, form.</p> <p>23 BY THE WITNESS:</p> <p>24 A. I don't even know how that would be. I</p> <p>25 don't know what you are talking about.</p>	<p style="text-align: right;">Page 137</p> <p>1 BY MR. FREEMAN:</p> <p>2 Q. -- not based on signature?</p> <p>3 A. No, I wouldn't agree with that at all.</p> <p>4 Because we also train ballot boards now. We do</p> <p>5 webinars for the ballot boards themselves. Ballot</p> <p>6 boards themselves are the ones who make the call</p> <p>7 whether to accept or reject. Now I'm not aware of a</p> <p>8 ballot board rejecting a carrier envelope because</p> <p>9 somebody had a number and they should have used the</p> <p>10 other number. That's crazy talk. But there are a lot</p> <p>11 of ballot boards who either didn't give the signatures</p> <p>12 any weight at all or gave them too much weight and then</p> <p>13 rejected even though the number was in the system. So</p> <p>14 that's the part that we are going to work on educating</p> <p>15 and correcting.</p> <p>16 Q. But nothing related to the numbers standing</p> <p>17 alone and not in relation to signatures?</p> <p>18 A. Again, I don't know what that means. I</p> <p>19 don't know how you would do that.</p> <p>20 Q. Okay. Are there any other reasons why mail</p> <p>21 ballot rejection rates decreased from the March primary</p> <p>22 to the November general that we haven't talked about?</p> <p>23 A. You know, I just think -- I mean Sam calls</p> <p>24 it getting used to, but it's a process of permeating</p> <p>25 the side geist. You know what I mean? It's something</p>

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<p style="text-align: right;">Page 138</p> <p>1 that filters into people's consciousness over time, 2 that that is something that I don't know if we just 3 call it getting used to it. But whatever it is it gets 4 better over time, the requirements. 5 Q. Mr. Ingram, do you know what share of 6 voters cast ballots by mail in November of 2022? 7 A. I did think of another reason they get 8 better over time. It's because our data gets better 9 over time. You know, the more voters that update their 10 information with one of the numbers, the better we are 11 going to have. If they make the ballot tracker easier 12 to access, that's an easier way to correct the defect. 13 Q. Do you know how many voters added driver's 14 license numbers or Social Security numbers to their 15 voter registration file using Texas.gov during the 16 general election period? 17 A. I don't know. I know we had over 40,000 18 people update their registration using Texas.gov. I 19 don't know how many of those were numbers only. 20 Q. A lot could have been address changes? 21 A. A lot could have been address changes and a 22 lot of them could have been numbers. I don't know how 23 many of each there are. 24 Q. You are not getting new registrants who 25 don't provide either a driver's license number or</p>	<p style="text-align: right;">Page 140</p> <p>1 the Help America Vote Act you had to have one of those. 2 I think we required the full nine, not the last four. 3 Help America Vote Act made us reduce it to the last 4 four only. 5 Q. Okay. But you are not getting a large 6 influx of additional voters now with no SSN, no DL? 7 A. Agree with that. 8 Q. And so attempts to add information are not 9 going to make further substantial changes in the future 10 because you have that for most of them already, right? 11 A. Well, I mean that's the whole issue, right? 12 We have got less than half a percent who have neither 13 one of those numbers in the record, right. Only if 14 that half of a percent tries to vote by mail and then 15 adds the number, will we get it, but that does happen, 16 and we will work on that last 93,800 folks to get them 17 a number. 18 Q. What are you doing affirmatively to work to 19 get them a number? 20 A. Well, what I talked about. We have changed 21 Texas.gov where we get no value supplied to us if 22 anybody logs on to us. We are telling voters if they 23 have their application rejected for lack of a number in 24 the system that's how you add the numbers to your 25 record. I mean I don't know how else you would do it.</p>
<p style="text-align: right;">Page 139</p> <p>1 Social Security number anymore into the system; is that 2 right? 3 A. Well -- 4 MS. HUNKER: Objection, form. 5 BY THE WITNESS: 6 A. -- they've got the opportunity to have 7 registration without either one of the numbers. 8 BY MR. FREEMAN: 9 Q. Other than the very small fraction of 10 people who check that box, you are not getting -- 11 everyone is providing either a driver's license number 12 or a Social Security number on their voter registration 13 applications now, correct? 14 A. There is a box for them, but there is also 15 a box for "I don't have either one of those." 16 Q. Do you know how many folks that you 17 register with the box that says, "I don't have a 18 driver's license number or Social"? 19 A. I don't. I'd agree with you it would be a 20 small number. 21 Q. Prior to Helping America Vote Act, you 22 could register without a driver's license number or 23 Social? 24 A. I don't know if you could in Texas. I know 25 there was a period of time a long time ago. But before</p>	<p style="text-align: right;">Page 141</p> <p>1 The voter has to take responsibility to do that 2 themselves. They have a mechanism for doing it 3 electronically or they can fill out a paper 4 application. But over time as they try to vote by 5 mail, that number is going to decrease. It will not 6 get bigger. 7 Q. Did you see substantial movement in that 8 number between the March primary and the November 9 general? 10 A. Not then, no. We didn't check then. 11 Q. You didn't check to see how many people had 12 no driver's license number and no Social Security 13 number? 14 A. That's right. We had already checked it at 15 the end of '21. And then we added as many as we could 16 so we knew what the number was going into the end of 17 the year, and we did it at the end of December '22? 18 Q. What was the change from the end of '21 to 19 the end of '22? 20 A. I don't know. I have got the end of '22 21 numbers in my head, but I don't remember what they are. 22 I mean before we did anything at all, we had about a 23 million records that didn't have a driver's license, 24 and a million that didn't have a Social, right. We 25 had, I don't know, 160,000 that didn't have either one.</p>

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<p style="text-align: right;">Page 142</p> <p>1 At the end of '22 we have got 389 that have a DL, but</p> <p>2 no Social, and we have got 298 that have a Social but</p> <p>3 no DL. We have got 93,000 that don't have either one.</p> <p>4 Q. Do you expect substantial further changes</p> <p>5 in decreasing that -- those numbers moving forward?</p> <p>6 MS. HUNKER: Objection, form.</p> <p>7 BY THE WITNESS:</p> <p>8 A. I don't know what you mean by substantial.</p> <p>9 I expect that the numbers are going to decrease over</p> <p>10 time. They are never going to get bigger than they are</p> <p>11 now. They will decrease.</p> <p>12 BY MR. FREEMAN:</p> <p>13 Q. Okay. Did the rate at which they</p> <p>14 decreased -- strike that.</p> <p>15 Did the share of numbers that you</p> <p>16 decreased -- you know what, we will move on then.</p> <p>17 Mr. Ingram, do you know what share of</p> <p>18 voters cast ballots by mail in November of '22?</p> <p>19 A. I don't.</p> <p>20 Q. Do you know if it was greater or lessor</p> <p>21 than the share that cast ballots by mail in November of</p> <p>22 2018?</p> <p>23 A. I don't know. I think it would probably be</p> <p>24 comparable number to 2018. It was less than 2020.</p> <p>25 Q. Do you know whether turnout in general was</p>	<p style="text-align: right;">Page 144</p> <p>1 A. Sure. Absolutely.</p> <p>2 Q. Do you trust the post office? We already</p> <p>3 discussed concerns that were raised with your office</p> <p>4 directly about rejection of mail ballots. Were these</p> <p>5 concerns valid?</p> <p>6 A. I don't know.</p> <p>7 MR. FREEMAN: Take a break for a minute.</p> <p>8 (WHEREUPON, a recess was had.)</p> <p>9 BY MR. FREEMAN:</p> <p>10 Q. Thank you, Mr. Ingram. I will pass you to</p> <p>11 Ms. Perales. But I think we all need a lunch break</p> <p>12 before then.</p> <p>13 A. Great.</p> <p>14 (WHEREUPON, a recess was had.)</p> <p>15 EXAMINATION</p> <p>16 BY MS. PERALES:</p> <p>17 Q. We are back on the record. Mr. Ingram, my</p> <p>18 name is Nina Perales and I represent the LUPE</p> <p>19 Plaintiffs. I'm with MALDEF. We know each other,</p> <p>20 don't we?</p> <p>21 A. We do.</p> <p>22 Q. We have met in the past usually at the</p> <p>23 legislature?</p> <p>24 A. Agreed.</p> <p>25 Q. Yes. You have been to so many more</p>
<p style="text-align: right;">Page 143</p> <p>1 higher in 2022 or lower in 2018?</p> <p>2 A. I don't remember. They were both quite a</p> <p>3 lot higher than normal mid-term elections, but I think</p> <p>4 '22 may have been a little less.</p> <p>5 Q. To your knowledge, did March 2022 ballot</p> <p>6 rejection deter some eligible voters from trying to</p> <p>7 vote by mail in November?</p> <p>8 A. No idea.</p> <p>9 Q. Did any election administrators or clerks</p> <p>10 indicate to you that voters were concerned about mail</p> <p>11 ballot rejection in November of 2022?</p> <p>12 A. Well, as you can see from the email, voters</p> <p>13 aren't shy about expressing directly to us. I don't</p> <p>14 know if we have to rely on county officials for that.</p> <p>15 Q. Did any county officials indicate to you</p> <p>16 that voters were concerned in November of 2022 about</p> <p>17 ballot rejection?</p> <p>18 A. Not any more than normal.</p> <p>19 Q. What's normal in terms of those types of</p> <p>20 concerns?</p> <p>21 A. Well, I mean whenever you send mail ballots</p> <p>22 you are relying on the post office and you are relying</p> <p>23 on whatever else. There is always trepidation until</p> <p>24 you get confirmed that your ballot was accepted.</p> <p>25 Q. Are these concerns valid?</p>	<p style="text-align: right;">Page 145</p> <p>1 hearings than I have, much to your credit.</p> <p>2 I am going to endeavor not to tread the</p> <p>3 same ground as Mr. Freeman did, but if that means that</p> <p>4 from time to time I'm pausing or flipping pages</p> <p>5 forward, it's only because I'm trying to make sure I</p> <p>6 don't re-ask any questions that are in my outline. I</p> <p>7 hope you don't take it as me trying to delay or</p> <p>8 anything. If I'm quiet, I'm skipping questions. How</p> <p>9 about that?</p> <p>10 A. That's fine. Yes.</p> <p>11 Q. Thank you. Thank you. Just a few more</p> <p>12 emails to go over with you along the same lines of</p> <p>13 emails that Mr. Freeman went over with you?</p> <p>14 A. Okay.</p> <p>15 Q. I'm going to mark those.</p> <p>16 MS. PERALES: Can we mark this one, please.</p> <p>17 (WHEREUPON, a certain document was</p> <p>18 marked Deposition Exhibit No. 23,</p> <p>19 for identification, as of 3/28/23.)</p> <p>20 BY MS. PERALES:</p> <p>21 Q. Mr. Ingram, can you identify this document?</p> <p>22 A. It looks like an email to our office from</p> <p>23 Barry Brandt, and the response.</p> <p>24 Q. Was it an email to -- well, it says the</p> <p>25 email is addressed to elections internet. Is that the</p>